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SAN FRANCISCO
PORT COMMISSION

DOCUMENTS DEPT.

SEP - 7 2001

SAN FRANCISCO
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REGULAR MEETING
4:00 P.M., TUESDAY, SEPTEMBER 11, 2001
BAYSIDE CONFERENCE ROOM
PIER 1, SAN FRANCISCO, CA 94111

AGENDA

1. **ROLL CALL**

2. **NEW BUSINESS/PUBLIC COMMENT**

   Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. It is strongly recommended that public comments be submitted in writing so they can be distributed to all Commissioners for review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

3. **EXECUTIVE SESSION**

   A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

   B. CLOSED SESSION

      (1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING LITIGATION MATTERS (DISCUSSION ITEMS):

         a. Discuss existing litigation matters pursuant to subdivisions (a) and (d) of the California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (2 cases).

            - As Defendant: CIC Associates, Inc. v. N. John Douglass; Information Network Radio, Inc.; San Francisco Port Commission, et al. , S.F. Superior Court Case No. 317532. Action filed December 19, 2000

            - As Plaintiff: CCSF v. Commonwealth Ins. Co. , et al., Santa Clara Superior Court Case No. CV 794046. Action filed October 22, 1999.

      (2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
      This session is closed to any non-City/Port representative. *

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a. Property: 1 Ferry Plaza (Gabbiano's)
Person Negotiating: Port: Terry Picon, Director of Real Estate
*World Trade Club: Conrad Breece

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at 1 Ferry Plaza.

b. Property: Pier 30/32 and SWL 330
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*San Francisco Cruise Terminal LLC: Glen Elkington

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 30/32 and SWL 330.

c. Property: Rincon Park Restaurant Site
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Rincon Park Restaurants, LLC: Reed Hearon

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Rincon Park Restaurant Site.

d. Property: Pier 27-31
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*The Mills Corporation: Edward B. Vinson

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 27-31.

e. Property: Pier 70, 1201 Illinois Street, between Humboldt and 23rd Streets
Person Negotiating: Port: Byron Rhett, Director of Planning & Development and Mark Lozovoy, Asst. Deputy Director of Real Estate
*Potrero Power Plant (Mirant Americas Development, Inc.): Mark Harrer

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at 1201 Illinois Street, between Humboldt and 23rd Streets.

f. Property: Pier 26
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Women's International Museum: Elizabeth Colton

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding

real estate negotiations for Port property located at Pier 26.

g. Property: Pier 96
Person Negotiating: Port: Theresa Picon, Director of Real Estate
*Coach USA: Ken Marciano

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 96.

h. Property: Pier 92
Person Negotiating: Port: Theresa Picon, Director of Real Estate
*Bode Gravel: Dan Boardman

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 92.

4. RECONVENE IN OPEN SESSION

A. Possible report on actions taken in closed session pursuant to Government Code 54957.1 and San Francisco Administrative Code 67.14.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code 54957.1 and San Francisco Administrative Code 67.14.

5. APPROVAL OF MINUTES - August 28, 2001 Regular Meeting

6. EXECUTIVE

A. Executive Director's Report
- San Francisco 2001 Bike Grand Prix

7. REAL ESTATE

A. Request for approval of amendment to Port Lease No. L-8627, dated as of May 8, 1974, with Ferry Plaza Limited Partnership, and Consent to Sublease with World Trade Club of San Francisco (Resolution No. 01-73) (Staff report provided to the Commission.)

8. PLANNING & DEVELOPMENT

A. Request for approval of the Bayview Hunters Point Concept Plan. (Resolution No. 01-74) (Staff report provided to the Commission.)

9. ADJOURNMENT

Staff Reports: Explanatory Documents available to the public are posted on the Port's Website at www.sfport.com.

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45 SFPL 04/09/04 78

SEPTEMBER/OCTOBER 2001
CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

Date	Time	Group	Location
September 11	4:00 p.m.	Port Commission	Bayside Conference Room @ Pier 1
September 25	4:00 p.m.	Port Commission	Bayside Conference Room @ Pier 1
October 9	4:00 p.m.	Port Commission	Bayside Conference Room @ Pier 1
October 23	4:00 p.m.	Port Commission	Bayside Conference Room @ Pier 1

NOTES:
The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 4:00 p.m., unless otherwise noticed, in the Bayside Conference Room @ Pier 1. Contact Amy Quesada at 274-0406 to be placed on the mailing list for Commission meeting agenda. ***The Commission Agenda and staff reports are also posted on the Port's Website @ www.sfport.com.***

The Fisherman's Wharf Waterfront Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Person: Kirk Bennett @ 274-0545.

The Maritime Commerce Advisory Committee (MCAC) meets every second Wednesday of the month from 11:30 a.m. to 1:30 p.m. in the Bayside Conference Room @ Pier 1, except for the meeting in August which would be held on August 1st. Contact Person: Jill Simpson @ 274-0519.

The Mission Bay CAC meets regularly on the 2nd Thursday of the month, from 5:00 to 7:00 p.m. at the Mission Bay Visitor Center (255 Channel Street). Please contact Tiffany Bohee at 749-2481 for more information.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Person: Kirk Bennett @ 274-0545.

The Pier 70 Advisory Group meets monthly on an as-needed basis generally on the 2nd Wednesday of the month from 4 to 6 p.m. at the Potrero Campus of the California College of Arts and Crafts, Board Room, 1111 – 8th Street between Irvin and Hooper. Contact Person: Mark Paez @ 705-8674.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Please contact Tiffany Bohee at 749-2481 or 749-2400 for more information.

The Southern Waterfront Advisory Committee (SWAC) meets every 4th Monday of the month. Location to be determined. Contact Person: Diane Oshima @ 274-0553.

The Waterfront Design Advisory Committee meets the 3rd Tuesday of the month from 11 a.m. to 1 p.m. in the Bayside Conference Room @ Pier 1. Contact Person: Dan Hodapp @ 274-0625.

Port Website: Check out the Port's Website at **www.sfport.com.**

ACCESSIBLE MEETING INFORMATION

Getting to Pier 1:

Pier 1 on the Embarcadero, at the foot of Washington St. The Embarcadero Station is the closest BART and MUNI Metro stop, located below Market St. at Drumm & Spear Streets. The nearest F-Line streetcar stop is on the Embarcadero at Washington St. MUNI bus lines serving the Pier 1 area are the 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142.

The nearest accessible parking is provided in the following off-street pay lots:

A) 1 space in the surface lot on the west side of the Embarcadero at Washington St.
B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets
C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking.

Metered street parking is available on the Embarcadero, Washington St. and Drumm St.

Pier 1:

The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Commission Bayside meeting room. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Commission meeting room.

Accessible meeting information policy:

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact Kevin Jensen, ADA Coordinator, at 274-0555. The Port's TTY number is (415) 274-0587.

Know Your Rights Under the Sunshine Ordinance. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, please contact Donna Hall, Administrator at 554-7724; fax 554-5163; e-mail address Donna_Hall@ci.sf.ca.us; City Hall, Room 244, One Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4689. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Ordinance Task Force, the San Francisco Public Library and on the City's Website at www.ci.sf.ca.us/bdsupvrs/sunshine.

San Francisco Lobbyist Ordinance. Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Admin. Code 16.520 – 16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street, #701, San Francisco, CA 94102, phone (415) 554-9510 or fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

PORT OF SAN FRANCISCO

MEMORANDUM

September 6, 2001

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of Amendment to Port Lease No. L-8627, dated as of May 8, 1974, with Ferry Plaza Limited Partnership for Premises Located at 1 Ferry Plaza (Gabbiano's), and Consent to Sublease with World Trade Club of San Francisco.

DIRECTOR'S RECOMMENDATION: APPROVE AMENDMENT TO PORT LEASE NO. L-8627

1. Background.

a. World Trade Club Lease. By Resolution No. 99-67, the Port Commission approved a Lease Disposition and Development Agreement and form of Ground Lease with Ferry Building Investors, LLC ("Developer"), for the historic rehabilitation of the Ferry Building. One of the conditions to the Port's delivery of the Ground Lease was the termination of certain long-term leases for the Ferry Building, including the lease between the Port and the World Trade Club of San Francisco ("WTC").

The Developer reached an agreement with WTC under which WTC agreed to terminate its lease with the Port and vacate the Ferry Building. WTC's agreement allowed for the commencement of the Ferry Building rehabilitation project, construction of which is underway and is anticipated to be completed and reopened in September 2002.

As a condition to WTC's willingness to terminate its lease, WTC requested certain concessions from the Port Commission relating to WTC's potential relocation. Those concessions were documented in a Lease Termination Agreement, dated November 20, 2000, and approved by the Port Commission pursuant to Resolution No. 00-95. In the approved Lease Termination Agreement, the Port Commission agreed to the following items:

This Print Covers Calendar Item No. 7A

- Port will consider in good faith requests made by WTC to lease or sublease alternative Port premises.

- If WTC makes a request for alternative Port space within 12 months after the WTC Lease termination, the Port will consider in such alternative leasing request the non-profit international trade operations of the WTC in setting base rent, including a possible waiver of percentage rent.

- If WTC reaches an agreement for the assignment or sublease of the Gabbiano's space, Port will waive percentage rent for so long as WTC continues to operate as a non-profit corporation providing services to the international trade community.

- If WTC enters into a lease or sublease of Port property, Port will waive permit fees for new construction or rehabilitation of alternative leased premises.

- If WTC makes a request for alternative Port space within 12 months after the WTC Lease termination and enters into a lease or sublease of such Port property requiring new construction or rehabilitation of the premises, Port will waive base rent for the construction period, not to exceed 1 year or $154,736.00 (the amount of rent payable under the Gabbiano's lease).

- The Port and WTC release each other from all future claims, including relocation rights.

b. **Gabbiano's Lease**. The Port is also a party to that certain BARTD Ventilating Structure Barbary Coast Restaurant Lease, dated May 8, 1974, for the building operated as Gabbiano's, located on the Ferry Plaza behind the Ferry Building (the "Lease"). The current tenant under that Lease is Ferry Plaza Limited Partnership ("Tenant"). The term of the Lease is sixty-six years and will expire in 2040. Tenant currently pays the Port approximately $154,195.68 annually, with an adjustment every five years during the term based on the Consumer Price Index. The Tenant also pays percentage rent of 6% of all food sales and 8% of all sales of alcoholic beverages and other bar sales. In fiscal year 2000-2001, the Tenant was billed $55,100.84 for percentage rent.

Section 10 of the Lease provides that the Tenant may not assign or sublet the premises without the written consent of the Port, not to be unreasonably withheld so long as the assignee has demonstrated the financial stability and business expertise to operate a restaurant of the quality of the tenant. The Lease does not provide for the Port to share in any proceeds or "bonus rent" received by the Tenant from an approved assignment or subletting.

2. **Sublease to WTC**. WTC and Tenant have reached agreement on the terms of a sublease, whereby WTC would relocate into the Gabbiano's space. As between the Port and the Tenant, the Tenant will not be released from any of its obligations under the Lease during the term of the Sublease.

Pursuant to Section 10 of the Lease, Tenant has requested Port consent to the Sublease from Tenant to WTC on the following terms.

a. **Term:** Twenty years, with two ten-year options to extend.

b. Use: All uses permitted under the Lease, plus the establishment and maintenance of facilities appropriate for the conduct of WTC's purposes, including reception and entertainment of its members, guests and other invitees, for meetings, events, and dining and bar services for on-premises consumption of food and alcoholic and non-alcoholic beverages.

c. Rent: Minimum Rent of $640,000 annually. Minimum Rent will be adjusted annually by the Consumer Price Index commencing in the 11th year of the sublease term. WTC also receives a rent abatement of Minimum Rent during the month of December for each of the first 10 years of the sublease term in the amount of $32,000.

d. Expenses. WTC is responsible for all expenses relating to the Lease during the Sublease term, including taxes, utilities, maintenance and repair, except that tenant is responsible to maintain and repair the glass canopy for the first 5 years of the sublease term.

e. Indemnity/Insurance. WTC agrees to indemnify the Port and FPLP for losses arising from the premises and the Port is named as an additional insured.

f. Subject to Lease. The terms of the Sublease are subject to all of the terms and conditions of the Lease.

3. **Amendment to Lease**. Implementation of the conditions agreed-upon by the Port Commission in the Lease Termination Agreement (as described in Section 1.a above) requires certain amendments to the Lease. In addition, the Port staff recommends additional amendments necessary to address issues related to the operations at the premises. Such amendments require the approval of the Port Commission, and the Board of Supervisors pursuant to Section 9.118 of the Charter. The following is a summary of the terms of the proposed Third Amendment to Lease:

a. Use Provisions:

- The Third Amendment will amend the use clause to allow for the use of the Premises to establish and maintain facilities appropriate for the reception of representatives of foreign governments, foreign trade attaches, United States government officials, and persons engaged in world trade generally, such as meeting rooms, lounges, dining services and such other facilities as will supplement the services being rendered to members in the stimulation of world trade and travel.

- Tenant will require WTC to submit an annual report to Port, showing membership lists, evidence of 501(c)(6) status in good standing, and such other information as is reasonably requested by Port, indicating compliance with the use provisions described above.

b. **Percentage Rent Provisions**: The Third Amendment will waive the percentage rent provisions of the Lease only as to those portions of the premises that are occupied and operated by the World Trade Club as a 501(c)(6) corporation operating in accordance with the uses permitted in Section 3.a above. Any portions of the Premises operated or occupied by an entity other than the World Trade Club for any other uses under the Lease shall be subject to the percentage rent provisions of the Lease.

c. **Construction Period Rent**: The Port will waive Minimum Rent under the Lease for an initial construction period not to exceed one year and for a maximum amount of $154,736.00.

d. **Utility/Sewer Line**: As condition to Port's consent to Sublease, the existing substandard water line must be repaired, or else Port must have agreement for repair no later than 90 days after effective date of approval, secured by a $50,000 deposit to be posted by WTC with the Port as security for this obligation. The Third Amendment will also reflect the Tenant's obligation to cause the sewer line serving the premises to be regularly serviced and cleaned by a licensed contractor and to maintain all utilities serving the Premises.

e. **Plaza Maintenance**. WTC and the Tenant will provide a letter agreeing to cooperate and negotiate in good faith with regard to the Developer's possible assumption of the Tenant's obligation to maintain Ferry Plaza East.

f. **Construction Period Waiver**. The Third Amendment will include a waiver of Port building permit fees for permits applied for by WTC on or prior to December 31, 2003.

g. **Amendment Application.** Items a, b, c and f above will only be effective as to the WTC, and to no other tenant, subtenant or assignee.

h. **City Requirements.** The Lease Amendment will also include the following City requirements that have been adopted since approval of the Lease:

- Non-Discrimination in Contracts and Property Contracts, including providing equal benefits to domestic partners (Admin. Code Section 12B and 12C)
- MacBride Principles (Northern Ireland)(Admin. Code Sec. 12F)
- Tropical Hardwood/Virgin Redwood Ban (Admin Code Section 12I)
- Tobacco Product Advertising Prohibition (Admin. Code Sec. 4.20)
- Health Care Accountability Ordinance (Admin. Code Sec. 12Q)
- First Source Hiring Ordinance (Admin. Code Sec. 83)
- Card Check Ordinance (Admin. Code Sec. 23.31-23.37)

WTC is also requesting that the Port enter into a non-disturbance agreement, providing that in the event of a termination of the Lease due to a default by Tenant, that Port will not terminate or otherwise disturb the rights of WTC or their subtenant.

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 01-73

WHEREAS, By Resolution No. 99-67, the Port Commission approved the form and substance of the Lease Disposition and Development Agreement ("LDDA") and Ground Lease ("Ferry Building Lease") with Ferry Building Investors, LLC ("Developer"), for the historic rehabilitation of the Ferry Building.

WHEREAS, by Resolution No. 1140-99, the Board of Supervisors approved the Ferry Building Lease with FBI and further authorized the Port's Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps as they or any of them deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the Ferry Building Lease and LDDA; and

WHEREAS, Because the Ferry Building was required to be vacated to allow for the timely and efficient redevelopment thereof, one of the conditions precedent under the LDDA was the termination of certain long-term leases for the Ferry Building, including leases between the Port and the World Trade Club of San Francisco ("WTC"); and

WHEREAS, to induce WTC to terminate its lease and vacate the Ferry Building, the Port Commission approved by Port Resolution No. 00-95 a Lease Termination Agreement under which the Port Commission agreed to certain conditions, all as more particularly described in Resolution No. 00-95; and

WHEREAS, WTC has reached agreement with the Port's tenant, Ferry Plaza Limited Partnership ("Tenant"), to sublease the premises subject to, that certain BARTD Ventilating Structure Barbary Coast Restaurant Lease, dated May 8, 1974 (the "Lease"), for the building operated as Gabbiano's, located on the Ferry Plaza behind the Ferry Building; and

WHEREAS, Pursuant to Section 10 of the Lease, Tenant has requested Port consent to the Sublease from Tenant to WTC on the terms set forth in the Memorandum to Port Commissioners, for Calendar Item No. 7A for the Port Commission's regular meeting of September 11, 2001, a form of which is on file with the Secretary of the Port Commission; and

WHEREAS, Implementation of the conditions agreed-upon by the Port Commission in the Lease Termination Agreement requires certain amendments to the Lease (the "Third Amendment to Lease") on the terms set forth in the Memorandum to Port Commissioners, for Calendar Item No. 7A for the Port Commission's regular meeting of September 11, 2001, a form of which is on file with the Secretary of the Port Commission, which amendment requires the approval of the Port Commission and the Board of Supervisors pursuant to Section 9.118 of the Charter; now, therefore, be it

RESOLVED, that the Port Commission hereby consents to the Sublease between Ferry Plaza Limited Partnership and the World Trade Club of San Francisco on the terms and conditions set forth in the Memorandum to Port Commissioners, for Calendar Item No. 7A for the Port Commission's regular meeting of

September 11, 2001, and in substantially in the form on file with the Secretary of the Port Commission; and be it further

RESOLVED, that the Port Commission hereby approves the Third Amendment to Lease, on the terms set forth in the Memorandum to Port Commissioners, for Calendar Item No. 7A for the Port Commission's regular meeting of September 11, 2001, a form of which is on file with the Secretary of the Port Commission, and in such final form as is approved by the City Attorney, and be it further

RESOLVED, that the Port Commission authorizes and directs the Port's Executive Director to forward the Third Amendment to Lease to the Board of Supervisors for approval, and upon approval thereof to execute the Third Amendment to Lease, enter into a non-disturbance and attornment agreement with WTC in such form as is approved by the City Attorney, and to take any and all further steps an he deems necessary or appropriate, in consultation with the City attorney, in order to consummate the transactions contemplated under this Resolution, including executing such further documents or assurances necessary, so long as such actions do not materially increase the obligations or liabilities of the City or Port.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 11, 2001.

_____
Secretary

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Fax 415 274 0528
www.sfport.com

MEMORANDUM

November 16, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of :

(1) Lease Termination Agreement with World Trade Club of San Francisco for leased premises located in the Ferry Building/World Trade Center (Resolution No. 00-95)

(2) Consent to Assignment and Amendment of Leases assigning Port Lease No. L-8010 and related leases with Limbach & Limbach, LLP to Ferry Building Investors, LLC for leased premises located in the Ferry Building (Resolution No. 00-96; and

(3) Reconsideration of recommendation to Board of Supervisors to adopt a Resolution of Necessity to proceed with an eminent domain action against the World Trade Club (Resolution No. 00-97).

By Resolution No. 99-67, the Port Commission approved the form and substance of the Lease Disposition and Development Agreement ("LDDA") and Ground Lease ("Ferry Building Lease") with Ferry Building Investors, LLC ("Developer"), for the historic rehabilitation of the Ferry Building. Under the terms of the LDDA, dated as of January 24, 1999, the Port and FBI have agreed to enter into the Ferry Building Lease for the entire Ferry Building upon satisfaction of certain conditions precedent. Because the Ferry Building must be vacated to allow for the timely and efficient redevelopment thereof, one of the conditions precedent was the termination of certain long-term leases for the Ferry Building, including leases between the Port and the World Trade Club of San Francisco ("WTC") and between the Port and Limbach & Limbach.

This Print Covers Calendar Item No. 5A

Pursuant to the LDDA, the Port is responsible for relocating or terminating the tenancies of all but three major tenants at the Ferry Building, and FBI is responsible for relocating or terminating the leasehold interests of the remaining three tenants at the Ferry Building, including WTC and Limbach.

As of the last Port Commission meeting, no agreement had been reached with WTC for the termination or relocation of their lease in the Ferry Building. Consequently, based on the findings therein, the Port Commission adopted Resolution No. 00-86, urging the Board of Supervisors to adopt a Resolution of Necessity in order to acquire the interests of the WTC in the Ferry Building.

Since the last Commission meeting, FBI has reached agreements with both WTC and Limbach under which WTC and Limbach have both agreed to vacate the Ferry Building to allow for commencement of the Ferry Building rehabilitation project under the Ferry Building Lease. However, such agreements are predicated upon actions by the Port Commission approving certain agreements, as described below.

WORLD TRADE CLUB LEASES

The Port and WTC are parties to Lease No. L-8562 and related month-to-month storage and space leases and licenses for space in the Ferry Building/World Trade Center (the "WTC Leases"). WTC has agreed that, in consideration of certain accommodations under the WTC Leases by the Port and certain other obligations of the Port described below, as well as to effect the buyout of their WTC Lease by FBI, WTC will enter into a Lease Termination Agreement with the Port to terminate the WTC Leases. Pursuant to the Lease Termination Agreement, WTC will vacate all of the premises subject to the WTC Leases and deliver possession to the Port no later than March 31, 2001.

The material terms of the Lease Termination Agreement with WTC are as follows:

- WTC will cease all operations in the Ferry Building on or before February 28, 2001. The WTC Leases will terminate and WTC will vacate the entire Ferry Building premises no later than on March 31, 2001.

- WTC shall pay all base rent owed under the Leases through December 31, 2000; the Port will waive base rent from January 1, 2001-March 31, 2001.

- If WTC defaults in its obligations, the Port will be entitled to file a Stipulation for Entry of Judgment, which will allow Port immediate possession of the premises without having to litigate an unlawful detainer proceeding, and WTC will indemnify Port for any losses as a result of the WTC default.

- FBI will give the Port a written Notice to Proceed on November 20, 2000, notifying the Port that FBI is ready to proceed with Close of Escrow on the Ferry Building.

Obligations for New Port Lease

- Port will consider in good faith requests made by WTC to lease or sublease alternative Port premises.

- If WTC makes a request for alternative Port space within 12 months after the WTC Lease termination, the Port will consider in such alternative leasing request the non-profit international trade operations of the WTC in setting base rent, including a possible waiver of percentage rent.

- If WTC reaches an agreement for the assignment or sublease of the Gabbiano's space, Port will waive percentage rent for so long as WTC continues to operate as a non-profit corporation providing services to the international trade community.

- If WTC enters into a lease or sublease of Port property, Port will waive permit fees for new construction or rehabilitation of alternative leased premises.

- If WTC makes a request for alternative Port space within 12 months after the WTC Lease termination and enters into a lease or sublease of such Port property requiring new construction or rehabilitation of the premises, Port will waive base rent for the construction period, not to exceed 1 year or $154,736.00 (the amount of rent payable under the Gabbiano's lease).

- The parties release each other from all future claims (other than claims for which WTC is obligated under the WTC Leases), including rights for relocation.

LIMBACH LEASES

The Port and Limbach are parties to Lease No. L-8010 and related month-to-month space and storage leases and licenses (the "Limbach Leases"). In furtherance of its obligations under the Ferry Building LDDA, the Port has served termination notices for Limbach & Limbach's month-to-month leases in the Ferry Building. Limbach has agreed to vacate the Ferry Building no later than February 28, 2001, and to assign the Limbach Leases to FBI pursuant to an agreement between FBI and Limbach.

As a condition to the effectiveness of the agreement between Limbach and FBI, FBI has asked the Port to consent to the assignment of the Limbach Leases to FBI. FBI has also requested the Port to allow Limbach to retain all income derived from any subsequent subleasing or assignment of the Limbach Leases in excess of the rent due to the Port under the Limbach Leases.

The Port would receive the following significant benefits by agreeing to the assignment

1. Limbach will agree to vacate the building on or before February 28, 2001.

2. As a condition to the assignment, FBI will agree that the Limbach lease (due to expire on June 30, 2006) will expire co-terminously with the term of the World Trade Club lease (due to expire on June 30, 2004, or earlier as provided for by the November 20, 2000 Notice to Proceed for the Close of Escrow on the Ferry Building). If the Ferry Building rehabilitation project does not occur for some reason, the termination in 2004 is a tremendous benefit to the Port by returning this below-market lease to the Port's control a full two years before its scheduled termination in 2006.

3. The Port will not be liable for relocation expenses for the month-to-month space and storage leases.

RECONSIDERATION OF RESOLUTION URGING BOARD OF SUPERVISORS TO ADOPT A RESOLUTION OF NECESSITY

Approval of the WTC Lease Termination Agreement will create an enforceable agreement whereunder the WTC will vacate the Ferry Building by March 31, 2001. Therefore, the City will not be required to exercise its eminent domain powers to acquire the leasehold. Port staff recommends that the Port Commission adopt the attached Resolution No. 00-97, requesting that the Board of Supervisors cease from proceeding with any acts necessary for the City to acquire WTC's interest in Lease L-8562.

RECOMMENDATION

FBI, Limbach and WTC have all agreed on the terms under which both Limbach and WTC will have fully vacated the Ferry Building as of March 31, 2001. FBI intends to submit their 120-day notice to proceed with Close of Escrow on November 20, 2000. The Port Commission's approval of the WTC Lease Termination Agreement, and the Consent to the Assignment of the Limbach Leases will resolve all of the issues involved in the WTC and Limbach leases, and will allow for delivery of the Ferry Building Lease to FBI, and commencement of payment to the Port of the $116,667.00 in monthly rent possibly as early as March 1, 2001. Therefore, Port staff recommends that the Port Commission approve the attached resolutions.

Prepared by: Neil Sekhri

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-95

WHEREAS, By Resolution No. 99-67, the Port Commission approved the form and substance of the Lease Disposition and Development Agreement ("LDDA") and Ground Lease ("Ferry Building Lease") with Ferry Building Investors, LLC ("FBI"), for the historic rehabilitation of the Ferry Building, and

WHEREAS, Under the terms of the LDDA, dated as of January 24, 1999, the Port and FBI have agreed to enter into the Ferry Building Lease for the entire Ferry Building upon satisfaction of certain conditions precedent; and

WHEREAS, by Resolution No. 1140-99, the Board of Supervisors approved the Lease with FBI and further authorized the Port's Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps as they or any of them deemed necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the Ferry Building Lease and LDDA; and

WHEREAS, Because the Ferry Building must be vacated to allow for the timely and efficient redevelopment thereof, one of the conditions precedent under the LDDA was the termination of certain long-term leases for the Ferry Building, including leases between the Port and the World Trade Club of San Francisco ("WTC"); and

WHEREAS, Pursuant to the LDDA, the Port is responsible for relocating or terminating the tenancies of all but three major tenants at the Ferry Building, and FBI is responsible for relocating or terminating the leasehold interests of the remaining three tenants at the Ferry Building, including WTC; and

WHEREAS, FBI and WTC have informed the Port that they have reached an agreement under which WTC has agreed to vacate the Ferry Building to allow for commencement of the Ferry Building rehabilitation project under the Ferry Building Lease, which agreement is predicated upon actions by the Port Commission approving the terms of a Lease Termination Agreement, the material terms of which are set forth in the Memorandum to Port Commissioners, for Calendar Item No. 5A for the Special Meeting of November 20, 2000; and

WHEREAS, resolution of negotiations between WTC, the Port and FBI is necessary to achieve the public interest in the timely historic rehabilitation of the Ferry Building; and

WHEREAS, public disclosure of draft agreements setting forth the parties' positions for a period of at least 10 days prior to final resolution would have unavoidably and substantially harmed the public interest by disrupting the sensitive negotiations necessary for the parties' to reach such resolution; now therefore, be it

RESOLVED, that the Port Commission hereby authorizes and directs the Executive Director to enter into a Lease Termination Agreement, terminating Port Lease No. L-8562 and all of WTC's other leases, licenses and rights to possession of premises within the Ferry Building/World Trade Center, on the terms set forth in the Memorandum to Port Commissioners, for Calendar Item No. 5A for the Special Meeting of November 20, 2000, and substantially in the form on file with the Port Commission Secretary for this item; and be it further

RESOLVED, that the Executive Director or his designee is hereby authorized and directed to take any and all steps as he deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions contemplated under this Resolution.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of November 20, 2000.

Secretary

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-96

WHEREAS, By Resolution No. 99-67, the Port Commission approved the form and substance of the Lease Disposition and Development Agreement ("LDDA") and Ground Lease ("Ferry Building Lease") with Ferry Building Investors, LLC ("FBI"), for the historic rehabilitation of the Ferry Building. Under the terms of the LDDA, dated as of January 24, 1999, the Port and FBI have agreed to enter into the Ferry Building Lease for the entire Ferry Building upon satisfaction of certain conditions precedent; and

WHEREAS, by Resolution No. 1140-99, the Board of Supervisors approved the Lease with FBI and further authorized the Port's Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps as they or any of them deemed necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the Ferry Building Lease and LDDA; and

WHEREAS, Because the Ferry Building must be vacated to allow for the timely and efficient redevelopment thereof, one of the conditions precedent under the LDDA was the termination of certain long-term leases for the Ferry Building, including leases between the Port and Limbach & Limbach, LLP ("Limbach"); and

WHEREAS, Pursuant to the LDDA, the Port is responsible for relocating or terminating the tenancies of all but three major tenants at the Ferry Building, and FBI is responsible for relocating or terminating the leasehold interests of the remaining three tenants at the Ferry Building, including Limbach; and

WHEREAS, FBI and Limbach have informed the Port that they have reached an agreement under which Limbach has agreed to vacate the Ferry Building to allow for commencement of the Ferry Building rehabilitation project under the Ferry Building Lease, which agreement is predicated upon actions by the Port Commission approving the terms of a Consent to Assignment and Amendment of Leases, the material terms of which are set forth in the Memorandum to Port Commissioners, for Calendar Item No. 5A for the Special Meeting of November 20, 2000; and

WHEREAS, resolution of negotiations between Limbach, the Port and FBI is necessary to achieve the public interest in the timely historic rehabilitation of the Ferry Building; and

WHEREAS, public disclosure of draft agreements setting forth the parties' positions for a period of at least 10 days prior to final resolution would have unavoidably and substantially harmed the public interest by disrupting the sensitive negotiations necessary for the parties' to reach such resolution; now therefore, be it

RESOLVED, that the Port Commission hereby authorizes and directs the Executive Director to execute the Consent to Assignment and Amendment of Leases affecting Port Lease No. L-8010 and such other of Limbach's leases, licenses and rights to possession of premises within the Ferry Building/World Trade Center described therein, on the terms set forth in the Memorandum to Port Commissioners, for Calendar Item No. 5A for the Special Meeting of November 20, 2000, and substantially in the form on file with the Port Commission Secretary for this item; and be it further

RESOLVED, that the Executive Director or his designee is hereby authorized and directed to take any and all steps as he deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions contemplated under this Resolution.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of November 20, 2000.

Secretary

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-97

WHEREAS, By Resolution No. 99-67, the Port Commission approved the form and substance of the Lease Disposition and Development Agreement ("LDDA") and Ground Lease ("Ferry Building Lease") with Ferry Building Investors, LLC ("Developer"), for the historic rehabilitation of the Ferry Building. Under the terms of the LDDA, dated as of January 24, 1999, the Port and FBI have agreed to enter into the Ferry Building Lease for the entire Ferry Building upon satisfaction of certain conditions precedent; and

WHEREAS, by Resolution No. 1140-99, the Board of Supervisors approved the Lease with FBI and further authorized the Port's Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps as they or any of them deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the Ferry Building Lease and LDDA; and

WHEREAS, Because the Ferry Building must be vacated to allow for the timely and efficient redevelopment thereof, one of the conditions precedent under the LDDA was the termination of certain long-term leases for the Ferry Building, including leases between the Port and the World Trade Club of San Francisco ("WTC"); and

WHEREAS, Pursuant to the LDDA, the Port is responsible for relocating or terminating the tenancies of all but three major tenants at the Ferry Building, and FBI is responsible for relocating or terminating the leasehold interests of the remaining three tenants at the Ferry Building, including WTC; and

WHEREAS, In order to achieve the timely historic rehabilitation of the Ferry Building, at a Special Meeting held on November 9, 2000, the Port Commission adopted Resolution No. 00-86, urging the Board of Supervisors to adopt a Resolution of Necessity in order to acquire the interests of the WTC in the Ferry Building because, at the time, there was no agreement with WTC for the termination or relocation of their lease in the Ferry Building; and

WHEREAS, Since the November 9, 2000 Commission meeting, FBI and WTC have informed the Port that they have reached agreement and WTC has provided Port with an executed Lease Termination Agreement that the Port Commission has approved by Port Resolution No. 00-95, under which WTC has agreed to vacate the Ferry Building/World Trade Center on or before March 31, 2001 to allow for commencement of the Ferry Building rehabilitation project under the Ferry Building Lease; and

WHEREAS, due to WTC's agreement to terminate its rights to possession under its leases of the Ferry Building/World Trade Center (the "WTC Leases"), there no longer exists the necessity for the City to acquire WTC's interests thereunder; now, therefore, be it

RESOLVED, that the Port Commission finds that there is no longer the necessity for the City to acquire the WTC's interest in the WTC Leases, and hereby requests the Board of Supervisors to abandon and cancel any calendared items related to the City's acquisition of the WTC Leases, and to cease any further action necessary to acquire the WTC's interest in the WTC Leases.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of November 20, 2000.

Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

September 5 , 2001

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Bayview Hunters Point Community Revitalization Concept Plan and Redevelopment Plan – Port Commission Comments

RECOMMENDATION: Approve Comments to be Forwarded to the Bayview Hunters Point Project Area Committee and San Francisco Redevelopment Agency Staff

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Summary

The Port Commission, its staff and its Maritime Commerce Advisory Committee and Southern Waterfront Advisory Committee have been working together to ensure sound planning and leasing activity of Port property in the Southern Waterfront. As part of this ongoing effort, there has been close review and consideration of the Bayview Hunters Point (BVHP) Community Revitalization Concept Plan (Concept Plan) developed by the BVHP Project Area Committee (BVHP PAC), which includes proposed uses for Port property. The Concept Plan is now being considered by the San Francisco Redevelopment Agency for incorporation into a draft BVHP Redevelopment Plan.

As described in detail below, the Concept Plan includes elements that conflict with existing maritime and industrial uses or policies included in the Port's adopted Waterfront Land Use Plan. These issues have been reviewed by the Commission, staff and Advisory Committees. The Port has sent initial comment letters to the BVHP PAC regarding this matter. As a result, Supervisor Sophie Maxwell has scheduled a three-month period to hold community workshops to resolve these issues. The Port and Advisory Committee members welcome the opportunity to work with Supervisor Maxwell, the BVHP PAC and interested community members.

This Print Covers Calendar Item No. 8A

OF SAN FRANCISCO
FAX 415 274 0528

Port staff believes that the comprehensive open space issues that have been raised by the land use debate on Port property in the BVHP redevelopment planning process should be addressed and resolved as part of the BVHP Redevelopment Plan, which will be produced by the Redevelopment Agency. As such, Port staff recommends Commission approval of the attached resolution, which conveys the Commission's comments to the Agency to ensure they are duly considered and addressed.

Background

The Bayview Hunters Point Redevelopment Survey Area was approved by the Redevelopment Agency in 1997, a necessary precursor to any redevelopment plan efforts for the area. Pursuant to State redevelopment law, the Bayview Hunters Point Project Area Committee (BVHP PAC) was formed with generally elected members from the Bayview Hunters Point Survey Area, funded by the Agency, to advise and review the redevelopment plan process.

Once the redevelopment process was underway, the BVHP PAC requested, and the Agency agreed, to develop a community plan, to provide direction for the Redevelopment Plan. The result of that effort was the publication of the Bayview Hunters Point Revitalization Concept Plan in March 2001.

On May 8, 2001, staff from the San Francisco Redevelopment Agency made a presentation to the Port Commission on the Concept Plan, which was discussed in a Port staff memorandum to the Commission, dated May 1, 2001.

That staff report includes a discussion of the conflict between a major open space designation (70-100 acres) proposed in the Concept Plan, and the Port's continued use of Pier 94-96 and surrounding Port land for existing or future maritime purposes, consistent with the Waterfront Land Use Plan. On the other hand, the staff report also acknowledged the Concept Plan's Northern Industrial Focus Area Plan revitalization strategies, which staff believes could in large part be achieved with maritime industrial development of Port lands, and compatible public access to the waterfront.

Initial comments of individual Commissioners expressed concern that the park with athletic fields, as proposed in the Concept Plan, would be incompatible with, and would preclude future development of maritime uses. Further comment from the Commission was reserved until comments and input from the Maritime Commerce and Southern Waterfront Advisory Committees were received.

On May 11, 2001, the Concept Plan was presented to the Maritime Commerce Advisory Committee (MCAC). The Committee expressed its opposition to developing athletic fields on the Pier 94-96 marine terminal, and approved having a letter sent to express that concern to the Commission. At that meeting, the MCAC also received a presentation of a draft Maritime Commerce and Industrial Land Use Study, which findings confirmed that Port lands south of Islais Creek (as well as other properties) was needed primarily for maritime and industrial use, to maintain a viable port.

On April 9, 2001 and May 17, 2001, Port staff sent letters to the Bayview Hunters Point PAC conveying the staff comments and those of the MCAC and Port Commission regarding the proposed park (see Attachment A).

On May 21, 2001, the Redevelopment Agency staff presented the Concept Plan to the Southern Waterfront Advisory Committee (SWAC). In that presentation, the proposed park location was shifted from the Pier 94-96 terminal to the Pier 90-94 backlands area, immediately to the west of the terminal, in response to the initial Port Commission comments. At that meeting, the SWAC also received a presentation on the draft Maritime Commerce and Industrial Land Use Study. Following lengthy discussion of the two documents, the SWAC approved two motions for Commission consideration. The first motion, approved by a vote of 6 to 4, stated that the SWAC rejects the open space proposal in the Bayview Hunters Point Concept Plan, in favor of maritime industrial uses in the Pier 90-94 backlands area as recommended in the Maritime Study. The second motion, approved unanimously, stated that the SWAC and Port should continue to work with the BVHP PAC and Redevelopment Agency to discuss and identify other opportunities for open space and public access on Port property. The approved minutes of the May 21, 2001 SWAC meeting, are contained in Attachment B.

The Maritime Commerce and Industrial Land Use Study also was presented to the Port Commission on May 22, 2001. The Commission expressed agreement and support of the Study's conclusions, which in general affirm the maritime land use policies and designations in the Waterfront Land Use Plan for land located primarily south of China Basin Channel.

In light of the comments from the Port and its advisory committees, Supervisor Sophie Maxwell convened a meeting with Port, BVHP PAC, Redevelopment Agency staff and other BVHP stakeholders to discuss the land use conflicts on Port property. They came to an understanding that the unanimously supported concept of developing an integrated open space network in BVHP was not an issue that applied only to Port property, but to the entire BVHP district. Consequently, all parties agreed to participate in a series of community workshops over a three month period to resolve the conflicts raised on Port property in this broad district-wide context. The Port commends Supervisor Maxwell and her staff for taking this leadership role, and is actively participating in the community workshops.

To date, there have been four community workshops. These workshops, chaired by Greg Asay, Legislative Aide to Supervisor Maxwell have been attended by interested citizens, members of the Hunters Point Shipyard CAC, BVHP PAC, SWAC and MCAC advisory groups, and City staff from the Planning Department, Redevelopment Agency, Recreation and Parks, Port, Mayor's Office of Economic Development. During these sessions, the opportunities and constraints for major large scale parks have been reviewed within the area covered by the Bayview Hunters Point Redevelopment Survey Area, including Port lands south of Islais Creek and in the Candlestick Point /Yosemite Creek area, and the Hunters Point Shipyard Redevelopment Plan area. These sessions also involved discussions with Recreation and Parks and Planning staff which acknowledged that 1) existing parks and recreational facilities in Bayview Hunters Point need to be improved and upgraded; and 2) at this time there are no surveys or studies that identify a clear basis for specific types or sizes of new parks, including that proposed on Port property in the BVHP Concept Plan.

While the community workshop process is still underway, the Redevelopment Agency is proceeding with production of a draft Redevelopment Plan. To do this, the Agency will review the BVHP Concept Plan and determine how much of that proposal can be justified as a Redevelopment Plan pursuant to applicable State redevelopment laws. The Agency staff has informed the Port that the geographic scope of the Concept Plan differs from the Redevelopment Plan, because it includes Port, private and other properties that are not under the control of the Redevelopment Agency. Therefore, the Redevelopment Plan, as currently conceived, will not include policies for Port property.

The Agency has proposed that the comprehensive open space concerns and issues raised by the Port staff, its advisory committees, and discussed in the community workshops, be separately addressed in an "Open Space Framework" process. This process is proposed to be conducted by the Redevelopment Agency and Recreation and Parks Department following completion of the Redevelopment Plan.

Port staff believes that production of a Redevelopment Plan should not proceed ahead of or separate from the Open Space Framework, in light of the unresolved comprehensive park and open space issues raised in the Concept Plan. Instead, the Open Space Framework should precede the Redevelopment Plan, in order to reconcile how the Concept Plan open space issues are addressed in the Redevelopment Plan, or possibly within the jurisdiction of other agencies, such as the Port, the Recreation and Parks Department, or the State Lands Commission.

Towards that end, staff recommends that the Commission approve the attached Resolution 01-74 containing the Port's comments, as presented below, which will be sent to the Redevelopment Agency for review and consideration before the draft Plan is completed. The Commission comments are based on review and approval of the maritime market and land use conclusions in the final Maritime Commerce and Industrial Land Use Study, and the recommendations received from the Maritime Commerce and Southern Waterfront Advisory Committees:

1) The Commission is committed to working with the community to plan and implement new public access and open spaces in the area, including Port lands, as long as it complements and is compatible with the Port's commitment to protect and enhance cargo and related maritime and industrial uses.

2) However, the Commission opposes development of a complex of recreational athletic fields on Port property between Piers 90 and 96 such as the 70-100 acre park proposed in the Bayview Hunters Point Draft Concept Plan, in recognition of the Commission's current Waterfront Land Use Plan policies, updated analysis and information contained in Maritime Commerce and Industrial Land Use Study approved by the Commission in July 2001, and the Commission's commitment to promoting cargo shipping and related industrial uses to foster maritime commerce.

3) The Commission is committed to a community planning process with the SWAC, MCAC, and Bayview Hunters Point community, including the Bayview Hunters Point PAC, and other interested parties to produce a development program for the Pier 90-94 backlands area that provides local economic and job opportunities, enhances the Commission's maritime commerce objectives, which program would also meet the Port's public trust objectives under the Burton Act, and also incorporates public access connections to the waterfront.

4) The Commission believes that the development program for the Pier 90-94 backlands can achieve many of the objectives stated in the Concept Plan, particularly those cited for the Northern Industrial Focus Area .

5) The Commission endorses the motions approved on May 21, 2001 and July 11, 2001 by the Southern Waterfront and Maritime Commerce Advisory Committees, respectively, supporting maritime and industrial uses over major recreational parks between Piers 90-96.

6) The Commission believes that maintaining suitable access for industrial transportation and freight rail is as essential to the viability of maritime and industrial uses as maintaining land for those purposes, and that all existing freight rail access should be maintained or enhanced, including the Illinois Street rail and truck bridge proposed by the Port, and the Carroll Avenue tracks located off Port property.

7) The Port Commission does not support Redevelopment Agency staff recommendations for the Bayview Hunters Point Redevelopment Plan that the Carroll Avenue tracks be permanently removed, given that those tracks currently serve maritime industrial users, and that this rail access has been proposed to be retained in the Redevelopment Plan and Primary Developer's Concept for the Hunters Point Shipyard.

8) The Commission supports and will continue to actively participate in the community workshop planning process sponsored by Supervisor Maxwell to reconcile competing maritime and open space use objectives in the context of a comprehensive Open Space Framework that identifies candidate sites that can accommodate major recreational parks in Bayview Hunters Point.

9) The Commission supports the location and improvement of new public access where it can be provided safely, and where it expands the existing open space network and Bay Trail, including that currently provided on Port lands at Heron's Head Park, along Islais Creek, and at India Basin Shoreline Park.

10) Given the high level of community and City agency effort that has been invested in the discussion of the open space issues raised in the Concept Plan, the Commission believes that the redevelopment planning process can and should provide the forum to reconcile the conflicts between the Concept Plan and Port's Waterfront Land Use Plan, prior to production of a draft Bayview Hunters Point Redevelopment Plan.

11) Towards that end, the Commission requests that the Agency's redevelopment planning process is coordinated with any further community workshops sponsored by Supervisor Maxwell to address Concept Plan open space issues, and that the Agency's proposed Open Space Framework be completed so that it informs and is integrated with the policies and directives that will be promoted in the Bayview Hunters Point Redevelopment Plan.

Submitted by: Diane Oshima
Manager, Waterfront Planning
Planning & Development

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION 01-74

WHEREAS, The Bayview Hunters Point Redevelopment Survey Area was approved by the Redevelopment Agency in 1997, and the Bayview Hunters Point Project Area Committee (BVHP PAC) elected to advise and review the redevelopment plan process; and

WHEREAS, The BVHP PAC requested, and the Agency agreed, to develop a community plan to provide direction for the Bayview Hunters Point Redevelopment Plan, which led to the publication of the Bayview Hunters Point Revitalization Concept Plan (Concept Plan) in March 2001; and

WHEREAS, On May 8, 2001, the San Francisco Redevelopment Agency presented the Concept Plan for review and comment to the Port Commission, which proposes a 70-100 acre active recreation park for athletic field sports on the Pier 94-96 marine terminal, and also identifies economic development strategies for a Northern Industrial Focus Area ; and

WHEREAS, On May 11, 2001, the Port's Maritime Commerce Advisory Committee (MCAC) received a briefing on the Concept Plan and expressed its opposition to developing a park on the Pier 94-96 marine terminal; and

WHEREAS, On May 21, 2001, the Port's Southern Waterfront Advisory Committee (SWAC) received a presentation of the Concept Plan, which was modified to shift the location of the park to the Pier 90-94 backlands, and which the SWAC has opposed in a motion forwarded to the Commission; and

WHEREAS, The SWAC approved a second motion recommending to the Commission that the Port and SWAC continue to work with the Bayview Hunters Point PAC and Redevelopment Agency to identify other open space and public access opportunities on Port property; and

WHEREAS, In May 2001, a Maritime Commerce and Industrial Land Use Study was released by the Port, prepared by a team of maritime and economic consultants, which have been the subject of review and comment by the MCAC, SWAC and Commission in public meetings held in May 2001; and

WHEREAS, The Maritime Commerce Industrial Land Use Study assesses the Port of San Francisco's maritime market opportunities and their associated operational and land needs, and includes conclusions recommending the Port retain its marine terminals at Piers 80 and 90-96; and undeveloped southern waterfront lands to accommodate warehousing, maritime support uses and industries, which affirms existing policies contained in the Port's Waterfront Land Use Plan; and

WHEREAS, On August 14, 2001, the Commission approved Resolution 01-65 which declares the Commission's concurrence and approval of the conclusions of the Maritime Commerce and Industrial Land Use Study; and

WHEREAS, The Commission believes it is important to convey its comments and concerns regarding the Concept Plan in order to be considered while the draft Redevelopment Plan is being produced; now, therefore be it

RESOLVED, The Commission directs staff to convey the following comments to the Bayview Hunters Point Project Area Committee, and staff of the San Francisco Redevelopment Agency to be considered and addressed prior to publication of the draft Bayview Hunters Point Redevelopment Plan:

1) The Commission is committed to working with the community to plan and implement new public access and open spaces in the area, including Port lands, as long as it complements and is compatible with the Port's commitment to protect and enhance cargo and related maritime and industrial uses.

2) However, the Commission does not support development of a complex of recreational athletic fields on Port property between Piers 90 and 96 such as the 70-100 acre park proposed in the Bayview Hunters Point Draft Concept Plan, in recognition of the Commission's current Waterfront Land Use Plan policies, updated analysis and information contained in Maritime Commerce and Industrial Land Use Study approved by the Commission in July 2001, and the Commission's commitment to promoting cargo shipping and related industrial uses to foster maritime commerce.

3) The Commission is committed to a community planning process with the SWAC, MCAC, and Bayview Hunters Point community, including the Bayview Hunters Point PAC, and other interested parties to produce a development program for the Pier 90-94 backlands area that provides local economic and job opportunities, enhances the Commission's maritime commerce objectives, which program would also meet the Port's public trust objectives under the Burton Act, and also incorporates public access connections to the waterfront.

4) The Commission believes that the development program for the Pier 90-94 backlands can achieve many of the objectives stated in the Concept Plan, particularly those cited for the Northern Industrial Focus Area.

5) The Commission endorses the motions approved on May 21, 2001 and July 11, 2001 by the Southern Waterfront and Maritime Commerce Advisory Committees, respectively, supporting maritime and industrial uses over major recreational parks between Piers 90-96.

6) The Commission believes that maintaining suitable access for industrial transportation and freight rail is as essential to the viability of maritime and industrial uses as maintaining land for those purposes, and that all existing freight rail access should be maintained or enhanced, including the Illinois Street rail and truck bridge proposed by the Port, and the Carroll Avenue tracks located off Port property.

7) The Port Commission does not support any recommendations in the Bayview Hunters Point Redevelopment Plan to remove the Carroll Avenue tracks, given that those tracks currently serve maritime industrial users, and that this rail access has been proposed to be retained in the Redevelopment Plan and Primary Developer's Concept for the Hunters Point Shipyard.

8) The Commission supports and will continue to actively participate in the community workshop planning process sponsored by Supervisor Maxwell to reconcile competing maritime and open space use objectives in the context of a comprehensive open space framework that identifies candidate sites that can accommodate major recreational parks in Bayview Hunters Point.

9) The Commission supports the location and improvement of new public access where it can be provided safely, and where it expands the existing open space network and Bay Trail, including that currently provided on Port lands at Heron's Head Park, along Islais Creek, and at India Basin Shoreline Park.

10) Given the high level of community and City agency effort that has been invested in the discussion of the open space issues raised in the Concept Plan, the Commission believes that the redevelopment planning process can and should provide the forum to reconcile the conflicts between the Concept Plan and Port's Waterfront Land Use Plan, prior to production of a draft Bayview Hunters Point Redevelopment Plan.

11) Towards that end, the Commission requests that the Agency's redevelopment planning process is coordinated with any further community workshops sponsored by Supervisor Maxwell to address Concept Plan open space issues, and that the Agency's proposed Open Space Framework be completed so that it informs and is integrated with the policies and directives that will be promoted in the Bayview Hunters Point Redevelopment Plan.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 11, 2001.

_____
Secretary

PORT OF SAN FRANCISCO

April 9, 2001

ATTACHMENT A

Bayview Hunters Point Project Area Committee (PAC)
1800 Oakdale Avenue, Suite B, Room 8
San Francisco, CA. 94124

Subject: Bayview Hunters Point Community Revitalization Concept Plan

Dear Bayview Hunters Point Project Area Committee Members:

The Planning and Development staff of the Port of San Francisco has reviewed the Executive Summary of the Bayview Hunters Point Community Revitalization Concept Plan. We support the major goals and policies cited in the Plan and look forward to working with the PAC to facilitate programs that support and implement the Plan.

A presentation of the Concept Plan will be made to the Port's two advisory groups concerned with the Southern Waterfront in coming months. These two groups are the Southern Waterfront Advisory Committee (SWAC) and the Maritime Advisory Committee (MAC). Port staff will summit a more formal and comprehensive response to the Redevelopment Agency regarding the Concept Plan and the Open Space and the Waterfront element after these presentations.

Nevertheless, we would like to briefly comment on some aspects of the proposed uses in the Concept Plan. Specifically the Plan proposes a new waterfront park on Port property at Piers 90-96. Development of this area is controlled by the Waterfront Land Use Plan adopted in 1997 after a seven-year community process. The park use is inconsistent with Waterfront Plan, which calls for cargo maritime and needed backland support uses. Further, the Concept Plan states that Port lands in the northern industrial area are not amenable to maritime use. The Bay Conservation and Development Commission's Seaport Plan contradicts this finding and restricts the area to maritime use.

The Port supports new and enhanced public access facilities along the southern waterfront. Heron's Head Park is a prime example of our commitment. We look forward to working with the Bayview Hunters Point Project Area Committee in your efforts to revitalize the Bayview Hunters Point community.

Sincerely,

Byron Rhett, Director Planning and Development

cc: Stan Muraoka, Redevelopment Staff

PORT OF SAN FRANCISCO

May 17, 2001

Mohammed Nuru, Chair
Members, Bayview Hunters Point Project Area Committee
1800 Oakdale Avenue
Suite B, Room 8
San Francisco, CA 94124

RE: Bayview Hunters Point Revitalization Concept Plan

Dear Mr. Nuru and Bayview Hunters Point PAC members:

The Port has been in the process of reviewing the Bayview Hunters Point Revitalization Plan (Concept Plan) in detail, and would like to convey comments to follow up on our letter to the PAC dated April 9, 2001.

We are impressed by the scope and breadth of the Concept Plan, and applaud the community effort to produce this comprehensive document. The Port supports the seven revitalization strategies to:

1) Promote Local Economic and Employment Development First
2) Improve Education, Training and Employment Opportunities for Residents
3) Focus Coordinated Investments in High Priority Areas Where They Will Have the Greatest Visibility and Impact
4) Encourage Civic Participation Through Interactive Public Processes and Foster Cultural Development through the Arts
5) Conserve Existing Housing and Provide New Housing
6) Address Environmental Problems and Identify Opportunities that Increase the Quality of Life
7) Improve the Physical Environment and Transportation Systems

At the May 8, 2001 Port Commission meeting, Stan Muraoka provided a presentation and overview of the Concept Plan, including the Bayview Hunters Point Framework Open Space Program. On May 11, 2001, the Port's Maritime Commerce Advisory Committee also received a briefing on the Concept Plan.

In our April 8th letter to the PAC, Port staff addressed the concern that the open space proposed on the Port's southern marine terminal at Pier 94-96 conflicts with the Port's Waterfront Land Use Plan, as well as BCDC's Seaport Plan. At their respective meetings, members of the Port Commission and Maritime Commerce Advisory Committee expressed grave concerns and opposition to the concept of locating a park on

terminal. Such a use would supplant one of the Port's two primary cargo terminals, undermining the Port's current and future maritime and industrial operations.

We do not believe that such fundamental maritime sacrifices need to be made to achieve the goals of the Concept Plan. In fact, we reviewed with great interest the Concept Plan's Year 2020 Community Vision Plans for the Northern Industrial and Hunters Point Shoreline Areas, and believe that these plans provide innovative blueprints to integrate industry, public access and open space, neighborhood beautification, economic and employment development, and environmental restoration.

The Port supports new and enhanced public access and open space along the southern waterfront. Heron's Head Park and Islais Creek public access areas are prime examples of our commitment. We have been working with the Redevelopment Agency staff to further identify public access, landscaping and open space opportunities that are compatible with continued maritime and industrial operations.

As part of entertaining new leasing opportunities, the Port is aggressively pursuing environmental restoration by securing commitments from new tenants on reduction of diesel emissions, landscaping and public access improvements, and innovate stormwater plans that minimize or avoid additional loads on the Southeast Treatment Plant. The Port is working with the Alliance for a Clean Waterfront and a team of hydrologists and stormwater consultants to develop a master stormwater management plan for Port lands.

In addition, the Port is pursing the construction of an Illinois Street rail and truck bridge, which would remove hundreds of trucks from Cargo Way and Third Street, and keep them contained between the Port's terminals. Finally, the Port is also focussed on maximizing employment opportunities for Bayview Hunters Point residents, by including lease provisions promoting employment of local truckers, and employment training and placement through organizations based in Bayview Hunters Point, such as Young Community Developers and Bayview Advocates.

We believe that such efforts and continued open community coordination are key to achieving many of the objectives in the Concept Plan. Towards that end, we look forward to working with the PAC and Bayview Hunters Point community.

Sincerely,

Byron Rhett, Deputy Director
Planning and Development Division

cc: Stan Muraoka, SF Redevelopment Agency
Joe LaClair, BCDC

PORT OF SAN FRANCISCO

ATTACHMENT B

SOUTHERN WATERFRONT ADVISORY COMMITTEE
MINUTES FROM MAY 21, 2001 MEETING (Final)

The next Regular SWAC meeting will be held on Monday, June 25, 2001; 6:00 – 8:00 p.m. Bayview Police Station, Community Room 201 Williams Street, San Francisco

SWAC Members in Attendance: David Gavrich, Bobby Guillory, John Goode, Dwayne Jones, Mohammed Nuru, Roger Peters, Karen Pierce, Jerrold Taylor, Olin Webb, Al Williams,

Port Staff in Attendance: Braj Norris, Diane Oshima, Lemont Adams, Mark Lozovoy, Phil Williamson, Byron Rhett

Other Attendees – see attached attendance list

Administrative

Minutes for the April 23, 2001 SWAC meeting were adopted unanimously. Braj Norris introduced John Goode, replacing Mark Rotor representing Marine Terminal Corporation; and Alex Lantsberg, representing Supervisor Sophie Maxwell.

Bayview Hunters Point Project Area Committee Concept Plan (Concept Plan)

Stan Muraoka, staff with the San Francisco Redevelopment Agency gave a presentation to the SWAC and public of the BVHP Concept Plan. Stan explained that the Concept Plan is comprehensive, addressing land use, economic, social, environmental and other issues. His remarks focussed on the Concept Plan's proposed large recreational park on Port property north of Cargo Way. It is envisioned that the park would contain active sports fields, including football fields. In Map 21 of the Concept Plan, the proposed park is located on Pier 94-96. However, Stan presented a revised plan with a relocated park off the marine terminal, on the Pier 90-94 backlands area, adjacent to the west side of the terminal. He explained that this locational shift came at the direction of the BVHP PAC. Stan clarified that the revised park site was initiated by the BVHP PAC not the Redevelopment Agency, but the Agency was acting as facilitator for the PAC and Port.

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Q (Roger Peters): What is the size of the modified open space in the Pier 90-94 backlands?
A (Stan Muraoka): There are no specific dimensions, footprint or size designated for the park, but it is envisioned to provide two or three football fields, accessible to the community.

Q (Karen Pierce): Has use of sports fields at Mendell and Galvez been studied?
A (Mohammed Nuru): There is one soccer field and tennis courts which are well-used.

Mohammed Nuru pointed out that a 1999 Park and Recreation Department assessment concluded the need for a large park and recreational facility. Therefore the Concept Plan identifies three potential locations: Candlestick Park, Hunters Point Shipyard, and Port land.

Q (Karen Pierce): Can HP Shipyard meet the recreational needs identified in the Park/Rec study?
A (Stan Muraoka): Stan acknowledged that many open spaces such as Candlestick Point and Yosemite Slough are not usable for play fields, because of wetlands restoration or remediation requirements. It is also true that current parks are not optimally programmed or maintained. Therefore improvements or repairs to existing facilities could accommodate increased public use. Stan indicated that the Agency and Park and Rec have been looking at all possible open space resources. With regard to the Hunters Point Shipyard, Stan reported that the hazardous waste remediation requirements for the site could delay development of park space.

Q (Karen Pierce): How is it consistent to have a park with athletic fields adjacent to the industrial uses and across from the Potrero Power Plant, and exposure to emissions?
A (Stan Muraoka): The Agency needs to take this and other factors into consideration.

Q (Karen Pierce): The Concept Plan speaks heavily to economic development. Why is the park proposed in an industrial area, thus risking losing blue collar jobs that can provide economic benefits for BVHP community?
A (Mohammed Nuru): Jobs can be generated from development in the Northwest Industrial Area, as proposed in the Concept Plan.

Olin Webb stated that most of the land in that northwest area is already in industrial use, and expressed his concern about the loss of growth areas for economic and job opportunity for the BVHP community if land continues to be designated for open space. He referenced Yosemite Slough, which was designated for open space, but has become a dumping ground neglected by the City, which he believes should be developed as a brownfields site. He also referenced Heron's Head Park, which already provides an important open space resource for the community on Port property and reiterated the need to focus on generating jobs for the community. He expressed concern about the Agency efforts because past projects did not deliver the local job and economic development that were supposed to be produced.

Q (Roger Peters): What's been done to reconcile open space planning with maritime industrial needs? Has the Port's maritime industrial study been taken into account?
A (Stan Muraoka): The Agency is presenting Concept Plan to the Port, SWAC to solicit comments to reconcile land uses for the area. The BVHP PAC's open space concept is part of an attempt to seek a desirable balance of maritime, industrial and open space uses. The Port and Agency should continue working together to resolve conflicts.

Q (Alex Lantsberg): Are there open space resources elsewhere? For example, how much open space is there in the Dogpatch Area [north of Pier 80]?
A (Diane Oshima): The Port's Waterfront Land Use Plan identifies existing and future open space sites on Port property. However, she pointed out that the predominant land use for Port and non-Port property in the Central and Southern Waterfront historically has been and continues to be industrial.

Mohammed Nuru stated that there is a need for active recreation in the area. He pointed out that the Port and City as an overall community need to be educated and balance open space, housing, job objectives.

Q (Al Williams): Who is the lead agency for determining uses on Port property?
A (Stan Muraoka): Port property is under the jurisdiction of the Port Commission. The property in under study in the Concept Plan because it was included in the original BVHP Redevelopment Plan survey area.

Dwayne Jones stated that jobs for the BVHP community have been mandated by the Redevelopment Agency in the past, but has not been enforced.

Charlie Walker expressed his agreement with Olin Webb that BVHP has not benefited from past redevelopment efforts. He pointed out that the Port Commission has indicated opposition to the park proposed in the Concept Plan. Charlie asked questions about the relationship between the Agency and the BVHP PAC. Why is the Redevelopment Agency promoting the Concept Plan, when it provides funding to the PAC? Mohammed Nuru clarified that the Concept Plan is a product from the BVHP PAC, not Redevelopment Agency, but that the Agency staff has been presenting the plan for the PAC.

Karen Pierce stated that the park proposed on Port property in the Concept Plan does not reflect a consensus of the entire community. Years ago, community residents opposed open space on Port land, because of the desire to seek jobs that match the skill and education level of African American residents.

Tom Chasm asked whether the Mission Bay Redevelopment Plans include required provision of jobs for BVHP residents. Dwayne Jones indicated this is the case, but that the jobs are not occurring because of lack of enforcement.

Maritime Industrial Study

Peter Dailey, the Port's Maritime Director, presented the findings of a draft Maritime Industrial Study, prepared by a team of economic and maritime consultants. The Port Commission directed staff to establish a Maritime Commerce Advisory Committee made up of representatives from all maritime industries at the Port, and to develop the Maritime Industrial Study. The focus of the study is on cargo shipping, ship repair, and industrial maritime activities at that Port, including industrial maritime support operations. The purpose of the study was to assess market opportunities for industrial maritime business, and the land and facility needs to accommodate future growth and change.

Peter focussed on the study information most pertinent to the Pier 80-south area of the waterfront. The study indicates that the largest cargo shipping growth opportunity is the importation of dry bulk cargo, such as aggregates and sand to serve the demand for construction materials. Container and breakbulk cargo shipping will generally remain at current levels or experience moderate growth over the next 10 years, and can both be accommodated at the Pier 80 terminal. The study indicates there will be a need for expanding dry bulk operations at Pier 94-96 by five or more acres in the next 10 years. In particular, Amador Street has great potential for maritime growth, because of its proximity to Piers 90-96 and access to ships, trucks, and freight within an underutilized industrial area. The study also identified a critical shortage of warehousing, distribution and industrial support space in San Francisco. Many non-Port areas that traditionally supported industrial businesses that depend on, or generate cargo/maritime business at the Port have become too expensive or developed for non-industrial uses. As a result, the study recommends that the Port reserve its property to accommodate some of those types of uses. The Port's Pier 90-94 backlands and Pier 70 area are the two key locations where such development could be accommodated.

Q (Dwayne Jones): The SWAC recommended use of local employment training and placement agencies, but Young Community Developers (YCD) has not received any calls. Why?
A (Peter Dailey): There haven't been any new leases signed, because they were all undergoing environmental review and the Southern Waterfront Supplemental EIR process. The Port Commission will include First Source hiring requirements in all new leases. Dwayne responded that enforcement of the First Source hiring requirements continue to be a problem in achieving actual job placements for BVHP community.

Q (Alex Lantsberg): What cargo growth is projected after 10 years?
A (Peter Dailey): Agreed that there is a need to continue to monitor cargo market trends. Not all cargo markets are the same. But Port agrees with the study's findings; they reflect the Port staff's experience with actual conditions and market opportunities.

John Goode, representing MTC, the stevedoring company operating Pier 80 pointed out that loading and off loading container cargo at Pier 80 generates direct and indirect jobs.

Bobby Guillory, representing the ILWU, stated that the ILWU has 100-150 employees from Bayview Hunters Point.

Charlie Walker criticized the Port for signing a lease with British Pacific Aggregates, which included a local hiring commitment. The British Pacific sold the lease to Hansen Aggregates, which is not abiding by the local job provision. Peter Dailey responded that the Port will look at the lease language immediately, and will begin enforcement is necessary.

Olin Webb suggested that the Port work with YCD or other job placement organizations to create a "manpower office" to provide information on Port job opportunities, and to monitor and enforce commitments to provide jobs for BVHP community.

Karen Pierce requested that Peter provide a review of the Maritime Industrial Study findings using a map, which Peter did provide in the meeting. Karen asked if any consideration will be given to adding streets in the backlands area, to which Peter Dailey replied that street additions would be considered. Gayle Orr-Smith asked the extent of the area west of Pier 94-96 needs to be reserved for expansion of shipping. Peter responded that the study suggests at least five acres for expansion of the terminal, and that the Port's approach has been for short-term leasing for the backlands, to reserve options for accommodate maritime support needs.

Motion: Bobby Guillory made a motion : That the SWAC reject the Bayview Hunters Point PAC/Redevelopment Agency Concept Plan's proposal for open space, in favor of maritime and industrial uses in the Pier 90-94 backlands area recommended in the Maritime Industrial Study. The motion was seconded by Roger Peters

Olin Webb suggested a friendly amendment to condition acceptance of the Maritime Industrial Study on the inclusion of environmental justice considerations.

Mohammed Nuru expressed his disappointment and belief that this motion regarding the Concept Plan is premature, because people have not had enough time to thoroughly review the Plan and its merits.

Karen Pierce responded and pointed out that the Port Commission received a presentation on the Concept Plan two weeks ago, and that she, as Chair of the SWAC, had been asked then whether SWAC had any recommendations. She deferred comment until having the discussion at this SWAC meeting.

David Gavrich agreed that the SWAC has not had enough time to review the PAC plan, and may have to vote against the motion for lack of sufficient time. He asked the schedule for further Port Commission consideration of the Concept Plan. Diane Oshima responded that the Commission was scheduled to receive a briefing on the Maritime Industrial Study on May 22nd. The Concept Plan is scheduled to come back before the Commission for formal comment, with any SWAC and Maritime Advisory Committee recommendations at its meeting on June 12th.

Bobby Guillory noted that the SWAC was established to work with the community and Port to foster compatible Port maritime and industrial leases. The Concept Plan's park proposal would mean a fundamental change to purely recreational use, that he believes directly conflicts with the purpose of the SWAC.

Al Williams acknowledged the value of the Maritime Industrial Study in better understanding the need for maritime uses, and generally supports the direction it provides. However, he also acknowledged the difficulty to trying to coordinate the BVHP PAC and SWAC/Port processes with respect to the Pier 90-94 backlands. The backlands were identified as an area that could be used for development responsive to community concerns. If a major open space as proposed in the Concept Plan doesn't work in the backlands, the Port, SWAC and community should look for other opportunities elsewhere in the Southern Waterfront.

Dwayne Jones stated that he hadn't heard enough to conclude that the BVHP paln is acceptable or not, although he is not inclined towards allowing open space that could further gentrification of the area.

Alex Lantsberg stated that this is the first time the SWAC has seen the Maritime Industrial Study, which he believes Supervisor Maxwell should review. It is not necessarily true that open space is completely incompatible with development, especially when open space would usually be used by residents on weekends, when businesses are closed.

Jerrold Taylor pointed out that the SWAC was formed to accommodate industry, and to accommodate industries that may be relocating at the Port from elsewhere in the City. We were warned by the Commission about competing uses. SWAC should keep its focus on getting, and keeping industry.

Charlie Walker stated that the Port Commission is a separate enterprise agency, and that it should not become an agent for the Redevelopment Agency.

David Erickson expressed question and concern about why the Agency should have jurisdiction over the Port.

The SWAC approved the motion by a vote of 6 (Pierce, Webb, Rogers, Guillory, Goode, Taylor to 4 (Gavrich, Nuru, Williams, Jones)

Motion: Al Williams proposed a second motion, seconded by Roger Peters: That the SWAC and Port continue working with the Bayview Hunters Point PAC and Redevelopment Agency to continue discussing how to provide open space use on Port property.

The motion was approved unanimously.

Bode Gravel/Mission Valley Lease

Dan Boardman of Bode Gravel Company was present to focus on the outstanding issues called out in the April 21, 2001 SWAC meeting associated with his proposal to construct a concrete manufacturing facility at Pier 92, adjacent to Mission Valley Rock Company's current dry bulk terminal, which would receive aggregate materials through the Mission Valley facilities. With regard to the status of the soil piles currently on-site, Bode will not reuse the soil in the plant construction. Diane Oshima reported for the Port's Environmental Manager, Carol Bach, that the Port will take responsibility for the disposition of the soils, and that discussions with the SF Public Health Dept, and State Department of Toxic Substances Control were still in process.

With respect to the ILWU issues, Dan Boardman indicated that Bode and ILWU have been in discussions. Bobby Guillory confirm this, and indicated that negotiations will continue and the outcome report to the Port Commission.

Dwayne Jones commended Dan Boardman and Bode for its commitment to job training and hiring of local residents, and asked that Bode be held up as an example for other businesses on Port property.

Alex Lantsberg asked why the SWAC hasn't received the lease for review and sign-off. Karen Pierce responded that SWAC role is to advise staff on the points that need to be included in the leases, but to not take on the task of reviewing the leases. She does not want SWAC to become party to the lease negotiations.

Mohammed Nuru and Karen Pierce requested that the Port staff return at the next SWAC meeting with a report on the status of the Pier 92 soil pile.

Pacific Cement Lease

Rick Ramirez of Pacific Cement reviewed a project summary list, which was mailed to the SWAC and interested public. He also pointed out that the project includes landscaping improvements, the specific plans of which would be planned with the community.

Q: Dwayne Jones asked whether Pacific Cement would replicate the type of training program that Bode had.
A: Rick responded that Pacific is currently working with Olin Webb and the Bayview Community Advocates, and would do the same with YCD.

Q: Roger Peters asked how the facility interacts with the nearby radio tower.
A: Rick responded that Pacific needs to keep any buildings at least 500 feet away from the tower.

Q: Roger Peters asked about the status of the environmental review.

A: Rick responded that Pacific will comply with all applicable SEIR mitigation measures.

Q: Karen Pierce though Pacific was seeking a lease extension at his current location on the Western Pacific site.
A: Rick clarified that Pacific seeks a new lease site because he must vacate the Western Pacific site to make way for construction of the MUNI Metro light rail train maintenance and storage facility.

Q: Roger Peters asked how the SEIR covers the Pacific Cement lease when it was not called out as one of the Industry Group.
A: Diane Oshima responded that the SEIR analyzes concrete production and aggregate importation through the Port's terminals as uses. The SEIR does not restrict the Commission from Commission from considering a lease for Pacific Cement even though Pacific is not identified as one of the proposed concrete batch plant operators. The main focus is to assure that that the impacts from concrete batch operations do not exceed the impacts analyzed. To assure this, each lease for concrete batch operations will include conditions requiring the tenant to submit concrete production volume reports to the Port, which will monitor the collective amount of production by all entities. Lease provisions include enabling the Port to halt operations of all concrete operators if production level exceeds those assumed in the SEIR, and further environmental review conducted if operators determine that higher production levels are necessary.

Tom Chasm stated that he did not believe that SEIR concrete operators should be limited to just those cited in the document.

Harry Reppart of RMC pointed out an error in the April 21, 2001 SWAC minutes regarding Pacific Cement that should be corrected to indicate that estimated stormwater volumes would be 200,000 gallons.

Motion: Bobby Guillory made a motion, seconded by Alex Lantsberg that the SWAC recommend to the Port Commission approval of the Pacific Cement Lease. The vote was 5 approving the motion (Taylor, Goode, Guillory, Lantsberg, Webb) and 4 abstaining (Nuru, Gavrich, Jones, Peters).

Potrero Power Plant

Byron Rhett provided a brief overview of the City process to solicit comments on the Potrero Power Plant upgrade proposed by Mirant, which is undergoing review by the California Energy Commission (CEC). In addition, Supervisor Maxwell has introduced legislation to identify City proposals to mitigate the impacts of the proposed plant. The Port has reviewed the proposal and worked with the community to develop comments and mitigation measure proposals, which will be presented to the Port Commission on May 22nd. The Port will be working with the Mayor's office to coordinate these comments with those of other agencies and interested parties. SWAC members and interested parties have received a copy of this document. Due to shortage of time, the

SWAC opted to not take up detailed discussion of the issues, but requested that the item be included on the agenda of the next SWAC meeting.

Tom Chasm asked that Specialty Crushing be added to the next SWAC agenda with a development proposal.

RMC Pacific Materials Lease

Joe Sostaric, General Manager of RMC Pacific Materials San Francisco ready mix operations made a presentation of their proposal to develop a ready-mix concrete batching facility on the south side of Pier 80 terminal. RMC and its predecessor companies have operated in various locations within San Francisco since 1906. Their current plant is located in Mission Bay must be relocated as Catellus develops the area as part of the Mission Bay plan. Joe gave a Power point presentation about RMC's history, various city projects with which it has been involved, their current proposal and response to community concerns.

Since earlier presentations of their proposed projects, RMC has refined its plant design to locate storage piles of aggregates north of the manufacturing facility, out of view from Islais Creek, and has worked with and proposes to maintain the Mwekma Ohlone Park improvements proposed by David Erickson and other citizens in the area. Joe Sostaric acknowledged that RMC is working with Supervisor Maxwell to try and resolve her concerns about locating at Pier 80, to make the facility visually acceptable.

Joe also reviewed RMC's efforts to reduce diesel emissions. The entire cement mixer truck fleet will be replaced with new, electronic ignitions engines that reduce diesel emissions by 90% compared to their existing trucks. RMC is working with CAL/EPA Air Resources Board to monitor and develop new lower emission standards using RMC trucks. With respect to jobs and local hiring, RMC will continue to work with YCD to not only train and hire cement mixer drivers, but provide truck driving training for BVHP residents so that they can attain drivers licenses and job eligibility for driving general commercial and industrial fleets. RMC plans on using Bayview Sand as one of the local truckers, and will work with a Pacific Maritime Association member to unload ships to secure work for ILWU.

Due to a lack of time, SWAC discussion of the RMC lease proposal was continued to the next SWAC meeting.

Meeting was adjourned at about 9:15 p.m.

Minutes prepared by Diane Oshima

Portwide/southern waterfront/swac items/swac minutes 5-21-01

SAN FRANCISCO
PORT COMMISSION

REGULAR MEETING
4:00 P.M., TUESDAY, SEPTEMBER 11, 2001
BAYSIDE CONFERENCE ROOM
PIER 1, SAN FRANCISCO, CA 94111

ADDENDUM

8. PLANNING & DEVELOPMENT

B. Request for approval of expression of support for State Legislation to enable construction of a new cruise ship terminal development at Pier 30-32 that would include public access, and to provide for the acceleration of the construction of the Brannan Street Wharf Park. (Resolution No. 01-75)

09-10-01 10:15 RCVD

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ACCESSIBLE MEETING INFORMATION

Getting to Pier 1:

Pier 1 on the Embarcadero, at the foot of Washington St. The Embarcadero Station is the closest BART and MUNI Metro stop, located below Market St. at Drumm & Spear Streets. The nearest F-Line streetcar stop is on the Embarcadero at Washington St. MUNI bus lines serving the Pier 1 area are the 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142.

The nearest accessible parking is provided in the following off-street pay lots:

A) 1 space in the surface lot on the west side of the Embarcadero at Washington St.
B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets
C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking. Metered street parking is available on the Embarcadero, Washington St. and Drumm St.

Pier 1:

The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Commission Bayside meeting room. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Commission meeting room.

Accessible meeting information policy:

In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals. A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact Kevin Jensen, ADA Coordinator, at 274-0555. The Port's TTY number is (415) 274-0587.

Know Your Rights Under the Sunshine Ordinance. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, please contact Donna Hall, Administrator at 554-7724; fax 554-5163; e-mail address Donna_Hall@ci.sf.ca.us; City Hall, Room 244, One Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4689. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Ordinance Task Force, the San Francisco Public Library and on the City's Website at www.ci.sf.ca.us/bdsupvrs/sunshine.

San Francisco Lobbyist Ordinance. Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Admin. Code 16.520 – 16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street, #701, San Francisco, CA 94102, phone (415) 554-9510 or fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

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PORT OF SAN FRANCISCO

NOTICE OF CANCELLED MEETING

The following Regular Port Commission Meeting has been cancelled:

SEPTEMBER 11, 2001 @ 4 P.M.

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REGULAR MEETING
4:00 P.M., TUESDAY, SEPTEMBER 25, 2001
BAYSIDE CONFERENCE ROOM
PIER 1, SAN FRANCISCO, CA 94111

AGENDA

1. **ROLL CALL**

2. **NEW BUSINESS/PUBLIC COMMENT**

   Public comment is permitted on any matter within Port jurisdiction and is not limited to agenda items. Public comment on non-agenda items may be raised during New Business/Public Comment. It is strongly recommended that public comments be submitted in writing so they can be distributed to all Commissioners for review. Please fill out a speaker card and hand it to the Commission Secretary. If you have any question regarding the agenda, please contact the Commission Secretary at 274-0406.

3. **EXECUTIVE SESSION**

   A. Vote on whether to hold closed session to confer with Legal Counsel and Real Property Negotiator.

   B. CLOSED SESSION

      (1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS (DISCUSSION ITEMS):

         a. Discuss existing litigation matter pursuant to subdivisions (a) and (d) of the California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (1 case).
            - As Defendant: CIC Associates, Inc. v. N. John Douglass; Information Network Radio, Inc.; San Francisco Port Commission, et al., S.F. Superior Court Case No. 317532. Action filed December 19, 2000.

         b. Discuss significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9 (1 case).
            - As Defendant: On January 13, 2001, the Port's drydock facility, known as Drydock #1, was sold by auction to a purchaser. Subsequent to the sale, the purchaser filed a claim, alleging that the Port failed to disclose certain material facts concerning the drydock, and claims damages in excess of $191,000. The Port has denied the claim, but has agreed to submit the matter to non-binding mediation. It appears that the claimant intends to pursue litigation if the dispute is not settled.

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
This session is closed to any non-City/Port representative. *

a. Property: 1 Ferry Plaza (Gabbiano's)
Person Negotiating: Port: Theresa Picon, Director of Real Estate
*World Trade Club: Conrad Breece

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at 1 Ferry Plaza.

b. Property: Illinois Street at Islais Creek
Person Negotiating: Port: Nita Mizushima, Chief Harbor Engineer
*Catellus Development Corporation: Eric Harrison

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Illinois Street at Islais Creek.

c. Property: Pier 30/32 and SWL 330
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*San Francisco Cruise Terminal LLC: Glen Elkington

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 30/32 and SWL 330.

d. Property: Rincon Park Restaurant Site
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Rincon Park Restaurants, LLC: Reed Hearon

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Rincon Park Restaurant Site.

e. Property: Pier 70
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*AMB Property, L.P.: Luis Belmonte
*San Francisco Arts Future Consortium (SFAFC): Christopher Meany

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 70.

f. Property: Pier 70, 1201 Illinois Street, between Humboldt and 23rd Streets

Person Negotiating: Port: Byron Rhett, Director of Planning & Development and Mark Lozovoy, Asst. Deputy Director of Real Estate
*Potrero Power Plant (Mirant Americas Development, Inc.): Mark Harrer

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at 1201 Illinois Street, between Humboldt and 23rd Streets.

g. Property: Pier 26
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Women's International Museum: Elizabeth Colton

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 26.

h. Property: Pier 96
Person Negotiating: Port: Theresa Picon, Director of Real Estate
*Coach USA: Ken Marciano

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 96.

i. Property: Pier 80 and Pier 92
Person Negotiating: Port: Mark Lozovoy, Asst. Deputy Director, Real Estate
*RMC Pacific Material: Joe Sostaric

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to discuss real estate negotiations regarding Port property located at Pier 80 and Pier 92.

j. Property: Pier 38
Person Negotiating: Port: Mark Lozovoy, Asst. Deputy Director, Real Estate
*Pier 38 Maritime Recreation Center: Carl Ernst, Jr.

Under Negotiation: ___ Price ___ Terms of Payment X Both
An executive session has been calendared to give direction to staff regarding real estate negotiations for Port property located at Pier 38.

4. RECONVENE IN OPEN SESSION

A. Possible report on actions taken in closed session pursuant to Government Code 54957.1 and San Francisco Administrative Code 67.12.

B. Vote in open session on whether to disclose any or all executive session discussions pursuant to Government Code 54957.1 and San Francisco Administrative Code 67.12.

5. **APPROVAL OF MINUTES** - August 28, 2001 Regular Meeting

6. **EXECUTIVE**

A. Executive Director's Report
- San Francisco 2001 Bike Grand Prix
- Emergency Planning and Security Debriefing

7. **REAL ESTATE**

A. Request for approval of amendment to Port Lease No. L-8627, dated as of May 8, 1974, with Ferry Plaza Limited Partnership, and Consent to Sublease with World Trade Club of San Francisco (Resolution No. 01-73) (Staff report provided to the Commission.)

B. Request for approval of the re-dedication as a public right-of-way of approximately twenty feet of Seawall Lot 337 located adjacent to Third Street between Terry Francois Boulevard and Mission Rock and approval of a Memorandum of Understanding with the Department of Public Works regarding the right-of-way. (Resolution No. 01-74) (Staff report provided to the Commission).

8. **PLANNING & DEVELOPMENT**

A. Request for approval of expression of support for State Legislation to enable construction of a new cruise ship terminal development at Pier 30-32 that would include public access, and to provide for the acceleration of the construction of the Brannan Street Wharf Park (Resolution No. 01-75) (Staff report provided to the Commission.)

B. Informational presentation by The Mills Corporation regarding its proposed Preferred Alternative Project plan of development submitted for the Piers 27-31 Recreation Project located on The Embarcadero between Greenwich and Bay Streets. (Staff report provided to the Commission.)

9. **ENGINEERING & MAINTENANCE**

A. Request for authorization to execute the Memorandum of Modifications No. 3 (Mission Bay South Infrastructure Plan) regarding Illinois Street Bridge Option. (Resolution No. 01-76) (Staff report provided to the Commission.)

10. **ADJOURNMENT**

Staff Reports: Explanatory Documents available to the public are posted on the Port's Website at www.sfport.com.

SEPTEMBER/OCTOBER 2001
CALENDAR OF UPCOMING PORT MEETINGS - OPEN TO THE PUBLIC

Date	Time	Group	Location
September 25	4:00 p.m.	Port Commission	Bayside Conference Room @ Pier 1
October 9	4:00 p.m.	Port Commission	Bayside Conference Room @ Pier 1
October 23	4:00 p.m.	Port Commission	Bayside Conference Room @ Pier 1

NOTES:

The San Francisco Port Commission meets regularly on the 2nd and 4th Tuesday of the month at 4:00 p.m., unless otherwise noticed, in the Bayside Conference Room @ Pier 1. Contact Amy Quesada at 274-0406 to be placed on the mailing list for Commission meeting agenda. ***The Commission Agenda and staff reports are also posted on the Port's Website @ www.sfport.com.***

The Fisherman's Wharf Waterfront Advisory Group meets regularly on the 3rd Tuesday of the month. The regular meeting time and place is 9:00 a.m. at Scoma's Restaurant, Pier 47 at Fisherman's Wharf. Contact Person: Kirk Bennett @ 274-0545.

The Maritime Commerce Advisory Committee (MCAC) meets every second Wednesday of the month from 11:30 a.m. to 1:30 p.m. in the Bayside Conference Room @ Pier 1. Contact Person: Jill Simpson @ 274-0519.

The Mission Bay CAC meets regularly on the 2nd Thursday of the month, from 5:00 to 7:00 p.m. at the Mission Bay Visitor Center (255 Channel Street). Please contact Tiffany Bohee at 749-2481 for more information.

The Northeast Waterfront Advisory Group meets regularly on the 1st Wednesday of the month at 4:00 p.m. in the Bayside Conference Room @ Pier 1. Contact Person: Kirk Bennett @ 274-0545.

The Pier 70 Advisory Group meets monthly on an as-needed basis generally on the 2nd Wednesday of the month from 4 to 6 p.m. at the Potrero Campus of the California College of Arts and Crafts, Board Room, 1111 – 8th Street between Irvin and Hooper. Contact Person: Mark Paez @ 705-8674.

The Rincon Point-South Beach CAC meets regularly on the 3rd Monday of the month, from 5:00-7:00 p.m. at the South Beach Yacht Club (Pier 40 on The Embarcadero). Please contact Tiffany Bohee at 749-2481 or 749-2400 for more information.

The Southern Waterfront Advisory Committee (SWAC) meets every 4th Monday of the month. Location to be determined. Contact Person: Diane Oshima @ 274-0553.

The Waterfront Design Advisory Committee meets the 3rd Tuesday of the month from 11 a.m. to 1 p.m. in the Bayside Conference Room @ Pier 1. Contact Person: Dan Hodapp @ 274-0625.

Port Website: Check out the Port's Website at **www.sfport.com.**

ACCESSIBLE MEETING INFORMATION

Getting to Pier 1:
Pier 1 on the Embarcadero, at the foot of Washington St. The Embarcadero Station is the closest BART and MUNI Metro stop, located below Market St. at Drumm & Spear Streets. The nearest F-Line streetcar stop is on the Embarcadero at Washington St. MUNI bus lines serving the Pier 1 area are the 9, 31, 32 and 71. For more information about MUNI accessible services, call (415) 923-6142.

The nearest accessible parking is provided in the following off-street pay lots:

A) 1 space in the surface lot on the west side of the Embarcadero at Washington St.
B) 3 spaces in the Pier 1/2 lot, located on the east side of the Embarcadero between the Ferry Building and Pier 1. During business hours this lot is operated by valets
C) Hourly and valet parking in the Pier 3 lot. This lot is accessed through the Pier 3 bulkhead building entrance on the east side of the Embarcadero. This lot is located on the pier deck; adjacent to the ferry boat Santa Rosa.

Additional covered accessible off-street pay parking is available in the Golden Gateway Garage, which is bounded by Washington, Clay, Drumm and Battery Streets. Entrance is on Clay St. between Battery and Front Streets. There is no high-top van parking.

Metered street parking is available on the Embarcadero, Washington St. and Drumm St.

Pier 1:
The Port's fully accessible offices are in the west end of Pier 1. There are two public entrances; the main entrance on the west (Embarcadero), and the Port History walk entrance on the south apron. Each of these entrances is provided with an automatically operated door. Both entrances lead to the Commission Bayside meeting room. Accessible public restrooms, drinking fountains, payphone and TTY are on the first floor near the main entrance. The public spaces of the Port's offices are equipped with remote infrared signage (Talking Signs) identifying all primary entrances, paths of travel, meeting rooms and amenities. Accessible seating areas and assistive listening devices will be available in the Commission meeting room.

Accessible meeting information policy:
In order to assist the City's efforts to accommodate persons with severe allergies, environmental illness, multiple chemical sensitivity or related disabilities, attendees at public meetings are reminded that other attendees may be sensitive to various chemical based products. Please help the City to accommodate these individuals.

A sign language interpreter and alternative format copies of meeting agendas and other materials can be provided upon request made at least 72 hours in advance of any scheduled meeting. Contact Kevin Jensen, ADA Coordinator, at 274-0555. The Port's TTY number is (415) 274-0587.

Know Your Rights Under the Sunshine Ordinance. Government's duty is to serve the public, reaching its decisions in full view of the public. Commissions, boards, councils and other agencies of the City and County exist to conduct the people's business. This ordinance assures that deliberations are conducted before the people and that City operations are open to the people's review. For more information on your rights under the Sunshine Ordinance (Chapter 67 of the San Francisco Administrative Code) or to report a violation of the ordinance, please contact Donna Hall, Administrator at 554-7724; fax 554-5163; e-mail address Donna_Hall@ci.sf.ca.us; City Hall, Room 244, One Dr. Carlton B. Goodlett Place, San Francisco, CA 94102-4689. Copies of the Sunshine Ordinance can be obtained from the Clerk of the Sunshine Ordinance Task Force, the San Francisco Public Library and on the City's Website at www.ci.sf.ca.us/bdsupvrs/sunshine.

San Francisco Lobbyist Ordinance. Attention: Individuals and entities that influence or attempt to influence local legislative or administrative action may be required by the San Francisco Lobbyist Ordinance (SF Admin. Code 16.520 – 16.534) to register and report lobbying activity. For more information about the Lobbyist Ordinance, please contact the Ethics Commission at 1390 Market Street, #701, San Francisco, CA 94102, phone (415) 554-9510 or fax (415) 703-0121 and web site http://www.ci.sf.ca.us/ethics/.

PORT OF SAN FRANCISCO

MEMORANDUM

September 19, 2001

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of Amendment to Port Lease No. L-8627, dated as of May 8, 1974, with Ferry Plaza Limited Partnership for Premises Located at 1 Ferry Plaza (Gabbiano's), and Consent to Sublease with World Trade Club of San Francisco.

DIRECTOR'S RECOMMENDATION: APPROVE AMENDMENT TO PORT LEASE NO. L-8627

1. Background.

a. World Trade Club Lease. By Resolution No. 99-67, the Port Commission approved a Lease Disposition and Development Agreement and form of Ground Lease with Ferry Building Investors, LLC ("Developer"), for the historic rehabilitation of the Ferry Building. One of the conditions to the Port's delivery of the Ground Lease was the termination of certain long-term leases for the Ferry Building, including the lease between the Port and the World Trade Club of San Francisco ("WTC").

The Developer reached an agreement with WTC under which WTC agreed to terminate its lease with the Port and vacate the Ferry Building. WTC's agreement allowed for the commencement of the Ferry Building rehabilitation project, construction of which is underway and is anticipated to be completed and reopened in September 2002.

As a condition to WTC's willingness to terminate its lease, WTC requested certain concessions from the Port Commission relating to WTC's potential relocation. Those concessions were documented in a Lease Termination Agreement, dated November 20, 2000, and approved by the Port Commission pursuant to Resolution No. 00-95. A copy of that resolution is attached hereto for reference.

This Print Covers Calendar Item No. 7A

In the approved Lease Termination Agreement, the Port Commission agreed to the following items:

- Port will consider in good faith requests made by WTC to lease or sublease alternative Port premises.

- If WTC makes a request for alternative Port space within 12 months after the WTC Lease termination, the Port will consider in such alternative leasing request the non-profit international trade operations of the WTC in setting base rent, including a possible waiver of percentage rent.

- If WTC reaches an agreement for the assignment or sublease of the Gabbiano's space, Port will waive percentage rent for so long as WTC continues to operate as a non-profit corporation providing services to the international trade community.

- If WTC enters into a lease or sublease of Port property, Port will waive permit fees for new construction or rehabilitation of alternative leased premises.

- If WTC makes a request for alternative Port space within 12 months after the WTC Lease termination and enters into a lease or sublease of such Port property requiring new construction or rehabilitation of the premises, Port will waive base rent for the construction period, not to exceed 1 year or $154,736.00 (the amount of rent payable under the Gabbiano's lease).

- The Port and WTC release each other from all future claims, including relocation rights.

b. **Gabbiano's Lease**. The Port is also a party to that certain BARTD Ventilating Structure Barbary Coast Restaurant Lease, dated May 8, 1974, for the building operated as Gabbiano's, located on the Ferry Plaza behind the Ferry Building (the "Lease"). The current tenant under that Lease is Ferry Plaza Limited Partnership ("Tenant"). The term of the Lease is sixty-six years and will expire in 2040. Tenant currently pays the Port approximately $154,195.68 annually, with an adjustment every five years during the term based on the Consumer Price Index. The Tenant also pays percentage rent of 6% of all food sales and 8% of all sales of alcoholic beverages and other bar sales. In fiscal year 2000-2001, the Tenant was billed $55,100.84 for percentage rent.

Section 10 of the Lease provides that the Tenant may not assign or sublet the premises without the written consent of the Port, not to be unreasonably withheld so long as the assignee has demonstrated the financial stability and business expertise to operate a restaurant of the quality of the tenant. The Lease does not provide for the Port to share in any proceeds or "bonus rent" received by the Tenant from an approved assignment or subletting.

2. **Sublease to WTC**. WTC and Tenant have reached agreement on the terms of a sublease, whereby WTC would relocate into the Gabbiano's space. As between the Port and the

Tenant, the Tenant will not be released from any of its obligations under the Lease during the term of the Sublease.

Pursuant to Section 10 of the Lease, Tenant has requested Port consent to the Sublease from Tenant to WTC on the following terms.

a. Term: Twenty years, with one ten-year option to extend and one additional option expiring contemporaneously with the term of the Gabbiano's lease.

b. Use: WTC must use the Premises for the establishment and maintenance of facilities appropriate for the conduct of WTC's purposes, including reception and entertainment of its members, guests and other invitees, for meetings, events, and dining and bar services for on-premises consumption of food and alcoholic and non-alcoholic beverages, and for no other use without the Port's prior written consent.

c. Rent: Minimum Rent of $640,000 annually. Minimum Rent will be adjusted annually by the Consumer Price Index commencing in the 11th year of the sublease term. WTC also receives a rent abatement of Minimum Rent during the month of December for each of the first 10 years of the sublease term in the amount of $32,000.

d. Expenses. WTC is responsible for all expenses relating to the Lease during the Sublease term, including taxes, utilities, maintenance and repair, except that tenant is responsible to maintain and repair the glass canopy for the first 5 years of the sublease term.

e. Indemnity/Insurance. WTC agrees to indemnify the Port and FPLP for losses arising from the premises and the Port is named as an additional insured.

f. Subject to Lease. The terms of the Sublease are subject to all of the terms and conditions of the Lease.

3. **Amendment to Lease**. Implementation of the conditions agreed-upon by the Port Commission in the Lease Termination Agreement (as described in Section 1.a above) requires certain amendments to the Lease. In addition, the Port staff recommends additional amendments necessary to address issues related to the operations at the premises. Such amendments require the approval of the Port Commission, and the Board of Supervisors pursuant to Section 9.118 of the Charter. The following is a summary of the terms of the proposed Third Amendment to Lease (a copy of which is on file with the Port Commission Secretary):

a. Use Provisions:

- The Third Amendment will amend the use clause to allow for the use of the Premises to establish and maintain facilities appropriate for the reception of representatives of foreign governments, foreign trade attaches, United States government officials, and persons engaged in world trade generally, such as meeting rooms, lounges, dining services and such other facilities as will

supplement the services being rendered to members in the stimulation of world trade and travel, and to require WTC to engage in those uses so long as they are a subtenant of the premises.

- Tenant will require WTC to submit an annual report to Port, showing membership lists, evidence of 501(c)(6) status in good standing, and such other information as is reasonably requested by Port, indicating compliance with the use provisions described above.

b. **Percentage Rent Provisions**: The Third Amendment will waive the percentage rent provisions of the Lease only as to those portions of the premises that are occupied and operated by the World Trade Club as a 501(c)(6) corporation operating in accordance with the uses permitted in Section 3.a above. Any portions of the Premises operated or occupied by an entity other than the World Trade Club for any other uses under the Lease shall be subject to the percentage rent provisions of the Lease.

c. **Construction Period Rent**: The Port will waive Minimum Rent under the Lease only during periods of construction in which the entire premises is closed for business occurring within the first year of the WTC sublease, up to a maximum amount of $154,736.00.

d. **Utility/Sewer Line**: As condition to Port's consent to Sublease, the existing substandard water line must be repaired, or else Port must have agreement for repair no later than 90 days after effective date of approval, secured by a $50,000 deposit to be posted by WTC with the Port as security for this obligation. The Third Amendment will also reflect the Tenant's obligation to cause the sewer line serving the premises to be regularly serviced and cleaned by a licensed contractor and to maintain all utilities serving the Premises.

e. **Plaza Maintenance**. WTC and the Tenant will provide a letter agreeing to cooperate and negotiate in good faith with regard to the Developer's possible assumption of the Tenant's obligation to maintain Ferry Plaza East.

f. **Construction Period Waiver**. The Third Amendment will include a waiver of Port building permit fees for permits applied for by WTC on or prior to December 31, 2003.

g. **Amendment Application.** Items a, b, c and f above will only be effective as to the WTC, and to no other tenant, subtenant or assignee.

h. **Prevailing Wages.** Tenant agrees under the Third Amendment to pay prevailing rates of wages for labor performed on the premises in accordance with San Francisco Charger Section A7.204 and Sections 6.33 through 6.45 of the San Francisco Administrative Code.

i. **City Requirements.** The Third Amendment will incorporate the following City requirements applicable to lease amendments that have been adopted since approval of the Lease:

- Non-Discrimination in Contracts and Property Contracts, including providing equal benefits to domestic partners (Admin. Code Section 12B and 12C)
- MacBride Principles (Northern Ireland)(Admin. Code Sec. 12F)
- Tropical Hardwood/Virgin Redwood Ban (Admin Code Section 12I)
- Tobacco Product Advertising Prohibition (Admin. Code Sec. 4.20)
- Health Care Accountability Ordinance (Admin. Code Sec. 12Q)
- Card Check Ordinance (Admin. Code Sec. 23.31-23.37)

WTC is also requesting that the Port enter into a non-disturbance agreement, providing that in the event of a termination of the Lease due to a default by Tenant, that Port will not terminate or otherwise disturb the rights of WTC or their subtenant.

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 01-73

WHEREAS, By Resolution No. 99-67, the Port Commission approved the form and substance of the Lease Disposition and Development Agreement ("LDDA") and Ground Lease ("Ferry Building Lease") with Ferry Building Investors, LLC ("Developer"), for the historic rehabilitation of the Ferry Building.

WHEREAS, by Resolution No. 1140-99, the Board of Supervisors approved the Ferry Building Lease with FBI and further authorized the Port's Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps as they or any of them deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the Ferry Building Lease and LDDA; and

WHEREAS, Because the Ferry Building was required to be vacated to allow for the timely and efficient redevelopment thereof, one of the conditions precedent under the LDDA was the termination of certain long-term leases for the Ferry Building, including leases between the Port and the World Trade Club of San Francisco ("WTC"); and

WHEREAS, to induce WTC to terminate its lease and vacate the Ferry Building, the Port Commission approved by Port Resolution No. 00-95 a Lease Termination Agreement under which the Port Commission agreed to certain conditions, all as more particularly described in Resolution No. 00-95; and

WHEREAS, WTC has reached agreement with the Port's tenant, Ferry Plaza Limited Partnership ("Tenant"), to sublease the premises subject to, that certain BARTD Ventilating Structure Barbary Coast Restaurant Lease, dated May 8, 1974 (the "Lease"), for the building operated as Gabbiano's, located on the Ferry Plaza behind the Ferry Building; and

WHEREAS, Pursuant to Section 10 of the Lease, Tenant has requested Port consent to the Sublease from Tenant to WTC on the terms set forth in the Memorandum to Port Commissioners, for Calendar Item No. 7A for the Port Commission's regular meeting of September 25, 2001, a form of which is on file with the Secretary of the Port Commission; and

WHEREAS, Implementation of the conditions agreed-upon by the Port Commission in the Lease Termination Agreement requires certain amendments to the Lease (the "Third Amendment to Lease") on the terms set forth in the Memorandum to Port Commissioners, for Calendar Item No. 7A for the Port Commission's regular meeting of September 25, 2001, a form of which is on file with the Secretary of the Port Commission, which amendment requires the approval of the Port Commission and the Board of Supervisors pursuant to Section 9.118 of the Charter; now, therefore, be it

RESOLVED, that the Port Commission hereby consents to the Sublease between Ferry Plaza Limited Partnership and the World Trade Club of San Francisco on the terms and conditions set forth in the Memorandum to Port Commissioners, for Calendar Item No. 7A for the Port Commission's regular meeting of

September 25, 2001, and in substantially in the form on file with the Secretary of the Port Commission; effective upon approval and execution of the Third Amendment to Lease described below; and be it further

RESOLVED, that the Port Commission hereby approves the Third Amendment to Lease, on the terms set forth in the Memorandum to Port Commissioners, for Calendar Item No. 7A for the Port Commission's regular meeting of September 25, 2001, a form of which is on file with the Secretary of the Port Commission, and in such final form as is approved by the City Attorney, and be it further

RESOLVED, that the Port Commission authorizes and directs the Port's Executive Director to forward the Third Amendment to Lease to the Board of Supervisors for approval, and upon approval thereof to execute the Third Amendment to Lease, Consent to Sublease, enter into a non-disturbance and attornment agreement with WTC in such form as is approved by the City Attorney, and to take any and all further steps an he deems necessary or appropriate, in consultation with the City attorney, in order to consummate the transactions contemplated under this Resolution, including executing such further documents or assurances necessary, so long as such actions do not materially increase the obligations or liabilities of the City or Port.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 25, 2001.

_____
Secretary

PORT OF SAN FRANCISCO

Ferry Building
San Francisco, CA 94111
Telephone 415 274 0400
Fax 415 274 0528
www.sfport.com

MEMORANDUM

November 16, 2000

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Approval of :

(1) Lease Termination Agreement with World Trade Club of San Francisco for leased premises located in the Ferry Building/World Trade Center (Resolution No. 00-95)

(2) Consent to Assignment and Amendment of Leases assigning Port Lease No. L-8010 and related leases with Limbach & Limbach, LLP to Ferry Building Investors, LLC for leased premises located in the Ferry Building (Resolution No. 00-96; and

(3) Reconsideration of recommendation to Board of Supervisors to adopt a Resolution of Necessity to proceed with an eminent domain action against the World Trade Club (Resolution No. 00-97).

By Resolution No. 99-67, the Port Commission approved the form and substance of the Lease Disposition and Development Agreement ("LDDA") and Ground Lease ("Ferry Building Lease") with Ferry Building Investors, LLC ("Developer"), for the historic rehabilitation of the Ferry Building. Under the terms of the LDDA, dated as of January 24, 1999, the Port and FBI have agreed to enter into the Ferry Building Lease for the entire Ferry Building upon satisfaction of certain conditions precedent. Because the Ferry Building must be vacated to allow for the timely and efficient redevelopment thereof, one of the conditions precedent was the termination of certain long-term leases for the Ferry Building, including leases between the Port and the World Trade Club of San Francisco ("WTC") and between the Port and Limbach & Limbach.

This Print Covers Calendar Item No. 5A

Pursuant to the LDDA, the Port is responsible for relocating or terminating the tenancies of all but three major tenants at the Ferry Building, and FBI is responsible for relocating or terminating the leasehold interests of the remaining three tenants at the Ferry Building, including WTC and Limbach.

As of the last Port Commission meeting, no agreement had been reached with WTC for the termination or relocation of their lease in the Ferry Building. Consequently, based on the findings therein, the Port Commission adopted Resolution No. 00-86, urging the Board of Supervisors to adopt a Resolution of Necessity in order to acquire the interests of the WTC in the Ferry Building.

Since the last Commission meeting, FBI has reached agreements with both WTC and Limbach under which WTC and Limbach have both agreed to vacate the Ferry Building to allow for commencement of the Ferry Building rehabilitation project under the Ferry Building Lease. However, such agreements are predicated upon actions by the Port Commission approving certain agreements, as described below.

WORLD TRADE CLUB LEASES

The Port and WTC are parties to Lease No. L-8562 and related month-to-month storage and space leases and licenses for space in the Ferry Building/World Trade Center (the "WTC Leases"). WTC has agreed that, in consideration of certain accommodations under the WTC Leases by the Port and certain other obligations of the Port described below, as well as to effect the buyout of their WTC Lease by FBI, WTC will enter into a Lease Termination Agreement with the Port to terminate the WTC Leases. Pursuant to the Lease Termination Agreement, WTC will vacate all of the premises subject to the WTC Leases and deliver possession to the Port no later than March 31, 2001.

The material terms of the Lease Termination Agreement with WTC are as follows:

- WTC will cease all operations in the Ferry Building on or before February 28, 2001. The WTC Leases will terminate and WTC will vacate the entire Ferry Building premises no later than on March 31, 2001.

- WTC shall pay all base rent owed under the Leases through December 31, 2000; the Port will waive base rent from January 1, 2001-March 31, 2001.

- If WTC defaults in its obligations, the Port will be entitled to file a Stipulation for Entry of Judgment, which will allow Port immediate possession of the premises without having to litigate an unlawful detainer proceeding, and WTC will indemnify Port for any losses as a result of the WTC default.

- FBI will give the Port a written Notice to Proceed on November 20, 2000, notifying the Port that FBI is ready to proceed with Close of Escrow on the Ferry Building.

Obligations for New Port Lease

- Port will consider in good faith requests made by WTC to lease or sublease alternative Port premises.

- If WTC makes a request for alternative Port space within 12 months after the WTC Lease termination, the Port will consider in such alternative leasing request the non-profit international trade operations of the WTC in setting base rent, including a possible waiver of percentage rent.

- If WTC reaches an agreement for the assignment or sublease of the Gabbiano's space, Port will waive percentage rent for so long as WTC continues to operate as a non-profit corporation providing services to the international trade community.

- If WTC enters into a lease or sublease of Port property, Port will waive permit fees for new construction or rehabilitation of alternative leased premises.

- If WTC makes a request for alternative Port space within 12 months after the WTC Lease termination and enters into a lease or sublease of such Port property requiring new construction or rehabilitation of the premises, Port will waive base rent for the construction period, not to exceed 1 year or $154,736.00 (the amount of rent payable under the Gabbiano's lease).

- The parties release each other from all future claims (other than claims for which WTC is obligated under the WTC Leases), including rights for relocation.

LIMBACH LEASES

The Port and Limbach are parties to Lease No. L-8010 and related month-to-month space and storage leases and licenses (the "Limbach Leases"). In furtherance of its obligations under the Ferry Building LDDA, the Port has served termination notices for Limbach & Limbach's month-to-month leases in the Ferry Building. Limbach has agreed to vacate the Ferry Building no later than February 28, 2001, and to assign the Limbach Leases to FBI pursuant to an agreement between FBI and Limbach.

As a condition to the effectiveness of the agreement between Limbach and FBI, FBI has asked the Port to consent to the assignment of the Limbach Leases to FBI. FBI has also requested the Port to allow Limbach to retain all income derived from any subsequent subleasing or assignment of the Limbach Leases in excess of the rent due to the Port under the Limbach Leases.

The Port would receive the following significant benefits by agreeing to the assignment

1. Limbach will agree to vacate the building on or before February 28, 2001.

2. As a condition to the assignment, FBI will agree that the Limbach lease (due to expire on June 30, 2006) will expire co-terminously with the term of the World Trade Club lease (due to expire on June 30, 2004, or earlier as provided for by the November 20, 2000 Notice to Proceed for the Close of Escrow on the Ferry Building). If the Ferry Building rehabilitation project does not occur for some reason, the termination in 2004 is a tremendous benefit to the Port by returning this below-market lease to the Port's control a full two years before its scheduled termination in 2006.

3. The Port will not be liable for relocation expenses for the month-to-month space and storage leases.

RECONSIDERATION OF RESOLUTION URGING BOARD OF SUPERVISORS TO ADOPT A RESOLUTION OF NECESSITY

Approval of the WTC Lease Termination Agreement will create an enforceable agreement whereunder the WTC will vacate the Ferry Building by March 31, 2001. Therefore, the City will not be required to exercise its eminent domain powers to acquire the leasehold. Port staff recommends that the Port Commission adopt the attached Resolution No. 00-97, requesting that the Board of Supervisors cease from proceeding with any acts necessary for the City to acquire WTC's interest in Lease L-8562.

RECOMMENDATION

FBI, Limbach and WTC have all agreed on the terms under which both Limbach and WTC will have fully vacated the Ferry Building as of March 31, 2001. FBI intends to submit their 120-day notice to proceed with Close of Escrow on November 20, 2000. The Port Commission's approval of the WTC Lease Termination Agreement, and the Consent to the Assignment of the Limbach Leases will resolve all of the issues involved in the WTC and Limbach leases, and will allow for delivery of the Ferry Building Lease to FBI, and commencement of payment to the Port of the $116,667.00 in monthly rent possibly as early as March 1, 2001. Therefore, Port staff recommends that the Port Commission approve the attached resolutions.

Prepared by: Neil Sekhri

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-95

WHEREAS, By Resolution No. 99-67, the Port Commission approved the form and substance of the Lease Disposition and Development Agreement ("LDDA") and Ground Lease ("Ferry Building Lease") with Ferry Building Investors, LLC ("FBI"), for the historic rehabilitation of the Ferry Building, and

WHEREAS, Under the terms of the LDDA, dated as of January 24, 1999, the Port and FBI have agreed to enter into the Ferry Building Lease for the entire Ferry Building upon satisfaction of certain conditions precedent; and

WHEREAS, by Resolution No. 1140-99, the Board of Supervisors approved the Lease with FBI and further authorized the Port's Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps as they or any of them deemed necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the Ferry Building Lease and LDDA; and

WHEREAS, Because the Ferry Building must be vacated to allow for the timely and efficient redevelopment thereof, one of the conditions precedent under the LDDA was the termination of certain long-term leases for the Ferry Building, including leases between the Port and the World Trade Club of San Francisco ("WTC"); and

WHEREAS, Pursuant to the LDDA, the Port is responsible for relocating or terminating the tenancies of all but three major tenants at the Ferry Building, and FBI is responsible for relocating or terminating the leasehold interests of the remaining three tenants at the Ferry Building, including WTC; and

WHEREAS, FBI and WTC have informed the Port that they have reached an agreement under which WTC has agreed to vacate the Ferry Building to allow for commencement of the Ferry Building rehabilitation project under the Ferry Building Lease, which agreement is predicated upon actions by the Port Commission approving the terms of a Lease Termination Agreement, the material terms of which are set forth in the Memorandum to Port Commissioners, for Calendar Item No. 5A for the Special Meeting of November 20, 2000; and

WHEREAS, resolution of negotiations between WTC, the Port and FBI is necessary to achieve the public interest in the timely historic rehabilitation of the Ferry Building; and

WHEREAS, public disclosure of draft agreements setting forth the parties' positions for a period of at least 10 days prior to final resolution would have unavoidably and substantially harmed the public interest by disrupting the sensitive negotiations necessary for the parties' to reach such resolution; now therefore, be it

RESOLVED, that the Port Commission hereby authorizes and directs the Executive Director to enter into a Lease Termination Agreement, terminating Port Lease No. L-8562 and all of WTC's other leases, licenses and rights to possession of premises within the Ferry Building/World Trade Center, on the terms set forth in the Memorandum to Port Commissioners, for Calendar Item No. 5A for the Special Meeting of November 20, 2000, and substantially in the form on file with the Port Commission Secretary for this item; and be it further

RESOLVED, that the Executive Director or his designee is hereby authorized and directed to take any and all steps as he deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions contemplated under this Resolution.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of November 20, 2000.

Secretary

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-96

WHEREAS, By Resolution No. 99-67, the Port Commission approved the form and substance of the Lease Disposition and Development Agreement ("LDDA") and Ground Lease ("Ferry Building Lease") with Ferry Building Investors, LLC ("FBI"), for the historic rehabilitation of the Ferry Building. Under the terms of the LDDA, dated as of January 24, 1999, the Port and FBI have agreed to enter into the Ferry Building Lease for the entire Ferry Building upon satisfaction of certain conditions precedent; and

WHEREAS, by Resolution No. 1140-99, the Board of Supervisors approved the Lease with FBI and further authorized the Port's Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps as they or any of them deemed necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the Ferry Building Lease and LDDA; and

WHEREAS, Because the Ferry Building must be vacated to allow for the timely and efficient redevelopment thereof, one of the conditions precedent under the LDDA was the termination of certain long-term leases for the Ferry Building, including leases between the Port and Limbach & Limbach, LLP ("Limbach"); and

WHEREAS, Pursuant to the LDDA, the Port is responsible for relocating or terminating the tenancies of all but three major tenants at the Ferry Building, and FBI is responsible for relocating or terminating the leasehold interests of the remaining three tenants at the Ferry Building, including Limbach; and

WHEREAS, FBI and Limbach have informed the Port that they have reached an agreement under which Limbach has agreed to vacate the Ferry Building to allow for commencement of the Ferry Building rehabilitation project under the Ferry Building Lease, which agreement is predicated upon actions by the Port Commission approving the terms of a Consent to Assignment and Amendment of Leases, the material terms of which are set forth in the Memorandum to Port Commissioners, for Calendar Item No. 5A for the Special Meeting of November 20, 2000; and

WHEREAS, resolution of negotiations between Limbach, the Port and FBI is necessary to achieve the public interest in the timely historic rehabilitation of the Ferry Building; and

WHEREAS, public disclosure of draft agreements setting forth the parties' positions for a period of at least 10 days prior to final resolution would have unavoidably and substantially harmed the public interest by disrupting the sensitive negotiations necessary for the parties' to reach such resolution; now therefore, be it

RESOLVED, that the Port Commission hereby authorizes and directs the Executive Director to execute the Consent to Assignment and Amendment of Leases affecting Port Lease No. L-8010 and such other of Limbach's leases, licenses and rights to possession of premises within the Ferry Building/World Trade Center described therein, on the terms set forth in the Memorandum to Port Commissioners, for Calendar Item No. 5A for the Special Meeting of November 20, 2000, and substantially in the form on file with the Port Commission Secretary for this item; and be it further

RESOLVED, that the Executive Director or his designee is hereby authorized and directed to take any and all steps as he deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions contemplated under this Resolution.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of November 20, 2000.

Secretary

PORT COMMISSION
CITY & COUNTY OF SAN FRANCISCO

RESOLUTION NO. 00-97

WHEREAS, By Resolution No. 99-67, the Port Commission approved the form and substance of the Lease Disposition and Development Agreement ("LDDA") and Ground Lease ("Ferry Building Lease") with Ferry Building Investors, LLC ("Developer"), for the historic rehabilitation of the Ferry Building. Under the terms of the LDDA, dated as of January 24, 1999, the Port and FBI have agreed to enter into the Ferry Building Lease for the entire Ferry Building upon satisfaction of certain conditions precedent; and

WHEREAS, by Resolution No. 1140-99, the Board of Supervisors approved the Lease with FBI and further authorized the Port's Executive Director and any other appropriate officers, agents or employees of the City to take any and all steps as they or any of them deems necessary or appropriate, in consultation with the City Attorney, in order to consummate the transactions under the Ferry Building Lease and LDDA; and

WHEREAS, Because the Ferry Building must be vacated to allow for the timely and efficient redevelopment thereof, one of the conditions precedent under the LDDA was the termination of certain long-term leases for the Ferry Building, including leases between the Port and the World Trade Club of San Francisco ("WTC"); and

WHEREAS, Pursuant to the LDDA, the Port is responsible for relocating or terminating the tenancies of all but three major tenants at the Ferry Building, and FBI is responsible for relocating or terminating the leasehold interests of the remaining three tenants at the Ferry Building, including WTC; and

WHEREAS, In order to achieve the timely historic rehabilitation of the Ferry Building, at a Special Meeting held on November 9, 2000, the Port Commission adopted Resolution No. 00-86, urging the Board of Supervisors to adopt a Resolution of Necessity in order to acquire the interests of the WTC in the Ferry Building because, at the time, there was no agreement with WTC for the termination or relocation of their lease in the Ferry Building; and

WHEREAS, Since the November 9, 2000 Commission meeting, FBI and WTC have informed the Port that they have reached agreement and WTC has provided Port with an executed Lease Termination Agreement that the Port Commission has approved by Port Resolution No. 00-95, under which WTC has agreed to vacate the Ferry Building/World Trade Center on or before March 31, 2001 to allow for commencement of the Ferry Building rehabilitation project under the Ferry Building Lease; and

WHEREAS, due to WTC's agreement to terminate its rights to possession under its leases of the Ferry Building/World Trade Center (the "WTC Leases"), there no longer exists the necessity for the City to acquire WTC's interests thereunder; now, therefore, be it

RESOLVED, that the Port Commission finds that there is no longer the necessity for the City to acquire the WTC's interest in the WTC Leases, and hereby requests the Board of Supervisors to abandon and cancel any calendared items related to the City's acquisition of the WTC Leases, and to cease any further action necessary to acquire the WTC's interest in the WTC Leases.

I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of November 20, 2000.

Secretary

THIRD AMENDMENT TO LEASE

This THIRD AMENDMENT TO LEASE (the "Amendment") is entered into as of _____, 2001 (the "Effective Date"), by and between the CITY AND COUNTY OF SAN FRANCISCO, a municipal corporation acting by and through the SAN FRANCISCO PORT COMMISSION (the "Port"), and FERRY PLAZA LIMITED PARTNERSHIP, a California limited partnership (the "Tenant").

RECITALS

THIS AMENDMENT IS MADE WITH REFERENCE TO THE FOLLOWING FACTS AND CIRCUMSTANCES:

A. Tenant's predecessor in interest entered into that certain BARTD Ventilating Building Development Agreement, dated January 10, 1973 (the "Development Agreement"), with the City and County of San Francisco, a municipal corporation, operating through the San Francisco Port Commission (hereinafter referred to as the "Port"). Pursuant to the Development Agreement, Port subsequently entered into with Tenant's predecessor in interest that certain BARTD Ventilating Structure Barbary Coast Restaurant Lease, dated May 8, 1974; as amended by an Amendment to Barbary Coast Restaurant Lease, dated December 1, 1974; a Second Amendment, dated May 29, 1976; and by an Assignment and Amendment of Lease Agreement dated January 25, 1978 (hereinafter collectively referred to as the "Lease"). The Lease is for that certain real property known as Bay Area Rapid Transit District Ventilation Building, in the City and County of San Francisco, State of California, which, together with its other associated improvements and appurtenances, is more particularly described in the Lease (the "Leased Premises").

B. Port, in order to accomplish the reconstruction of the Ferry Building and the other public purposes that Port sought to advance in the Central Waterfront area of San Francisco in a timely manner, commenced proceedings in eminent domain against WORLD TRADE CLUB OF SAN FRANCISCO, a California nonprofit corporation (hereinafter referred to as "Subtenant"), to vacate the Ferry Building, which proceedings were concluded subject to the terms of that certain Lease Termination Agreement entered into by and between Subtenant and the Port, dated November 20, 2000 (the "Termination Agreement").

C. Subject to the terms and conditions thereof, Tenant has agreed to enter into that certain Agreement of Sublease dated _____, 2001 (the "Sublease"), whereby Subtenant shall sublease from Tenant, the Leased Premises for the purpose of Subtenant's operating a private, nonprofit trade association, dining club and meeting facility on the Leased Premises.

D. The Termination Agreement provided in pertinent part that, in the event Subtenant relocated to the Leased Premises, the Port would waive (1) certain percentage rent obligations of Tenant for so long as Subtenant was a subtenant of the Leased Premises

continuing to operate as an Internal Revenue Code Section 501(c)(6) corporation providing services to the international trading community; (2) customary permit fees otherwise chargeable to Subtenant for new construction or rehabilitation at the Leased Premises for work performed by Subtenant; and (3) subject to the terms of the Termination Agreement, base rent that would otherwise be due under the Lease, in an aggregate amount no greater than $154,736.

E. Subject to the terms and conditions of the Sublease, and on the basis of the foregoing, and the undertakings of Subtenant pursuant to the Sublease, Tenant and Port desire to enter into this Amendment on the terms and conditions set forth herein

NOW, THEREFORE, in consideration of the mutual promises, for the purposes aforesaid, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. **General**. All capitalized terms used without definition shall have the meanings given to them in the Lease, unless indicated otherwise.

2. **Continued Effect of Lease**. All provisions of the Lease, except as modified by this Amendment, shall remain in full force and effect and are reaffirmed. Each party acknowledges that it, as its respective interests appear, is liable for all damages arising from nonperformance under this Amendment if all conditions of this Amendment are not met; and that if this Amendment is performed such performance shall be accepted as full performance of its obligations under this Amendment. Other than as stated in this Amendment, this Amendment shall not operate as a waiver of any condition or obligation imposed on the Parties under the Lease.

3. **Waivers of Rent and Permit Fees**. New Sections 2(d), 2(e) and 2(f) are hereby added to the Lease, to read as follows:

(d) Percentage Rent Waiver. Pursuant to Section 3.b.(iii) of the Termination Agreement and subject to the terms and conditions hereof, during the Sublease Term (as defined in Section 2.1 of the Sublease) and any Extension Term (as defined in Section 24.1 of the Sublease), only for so long as Subtenant uses and occupies the Leased Premises and continues to operate as an Internal Revenue Code Section 501(c)(6) corporation operating in accordance with the use provisions of Section 5.(a) below, Port hereby waives enforcement of, and does hereby release Tenant from, Tenant's obligation to pay, the percentage rental provided in the Lease (under Paragraph 2(b) of the Lease). In the event that (i) any portion of the Leased Premises is no longer used for the purposes set forth in Section 5.(a) below, or (ii) any portion of the Leased Premises is operated by an entity other than Subtenant or occupied by an entity other than Subtenant, except in connection with an event where Subtenant is providing the food and beverage service, then such portion of the Leased Premises shall be subject to the percentage rental provisions of the Lease.

(e) Construction Period Base Rent Waiver. Under Section 10.1 of the Sublease, Tenant consents to certain Alterations and Improvements to be constructed by Subtenant,

consisting of (i) shell and core and interior Alterations to create a "first class" meeting, dining and reception facility for its trade association members, (ii) build-out of the Expansion Space (as defined in Section 1.2 of the Sublease), and (iii) from time to time during the Term alterations, remodels, and improvements to the Building, subject to necessary approvals and conditions (collectively, the "Construction Work"). If Subtenant undertakes a portion of the Construction Work that results in the closure of the entire Leased Premises for business, then Port hereby waives enforcement of, and does hereby release Tenant from its obligation to pay, the minimum rental provided in the Lease (under Paragraph 2(a) of the Lease) only during such periods of closure that occur during the period commencing on the later of the date Subtenant takes possession of the leased Premises or the Effective Date hereof, and terminating on the date that is one (1) year thereafter.

(f) Permit Fees Waiver. Pursuant to Section 3.b.(iv) of the Termination Agreement and subject to the terms and conditions hereof, Port hereby waives enforcement of, and does hereby release Subtenant from the obligation to pay customary Port building permit fees for building permits for Construction Work (as defined in Section 2(e) above) at the Leased Premises applied for by Subtenant on or before December 31, 2003.

4. **Uses**. Section 5 of the Lease is hereby amended to add new Section 5(a) as follows:

5(a) Required Uses by Subtenant. During the term of the Sublease, the Leased Premises shall be used to establish and maintain facilities appropriate for the reception of representatives of foreign governments, foreign trade attachés, United States government officials, and Persons engaged in world trade generally, such as meeting rooms, lounges, dining services and such other facilities as will supplement the services being rendered to members in the stimulation of world trade and travel, and for no other use without the prior written consent of Port.

Tenant shall require Subtenant in the Sublease to submit to Port on an annual basis a report showing current membership lists, evidence that Subtenant's status as a Section 501(c)(6) Organization (as defined in Recital F of the Sublease) is in good standing, and such other information as shall be reasonably requested by Port, indicating Subtenant's compliance with the use provisions of Section 5(a) hereof.

5. **Utility and Sewer Lines**. Section 7 of the Lease (Standard of Condition of Premises) is hereby amended to add the following language:

Tenant shall install, or cause to be installed, a new principal water pipeline to the Leased Premises, and Tenant shall deliver to Port within ninety (90) days after the Effective Date of the Third Amendment to Lease, a written installation agreement with respect to such pipeline. Tenant's obligation to complete the installation work described in the preceding sentence shall be secured by an additional security deposit of Fifty Thousand Dollars ($50,000) in cash or letter of credit, submitted by Subtenant to Port on or before the Effective Date hereof, until such installation work has been completed to the

reasonable satisfaction of Port. Promptly after the lien-free completion of such water pipeline installation, Port shall refund to Subtenant the sum of $50,000 without delay. Tenant shall cause the sewer line serving the Leased Premises to be regularly serviced and cleaned by a licensed contractor. Without otherwise limiting Tenant's obligations hereunder, Tenant shall, at all times during the term of the Lease (as described in Paragraph 1 of the Second Amendment) and at Tenant's sole cost and expense, maintain in good condition and repair all required or necessary lines and connections for electricity, gas, sewer, and water serving the Leased Premises.

6. **Guarantee Deposit.** Section 3 of the Lease (Guarantee Deposit) is hereby amended to add the following language:

Port hereby agrees that Subtenant may pay to Port, and Port shall accept and hold in satisfaction of Tenant's guarantee deposit obligations and in the manner set forth in this Section 3, the one year's minimum rent deposit required thereunder in the form of cash or letter of credit (the "Subtenant's Deposit"). Upon Port's acceptance of the Subtenant's Deposit as a replacement for the security deposit furnished by Tenant under the Lease ("Tenant's Deposit"), Port shall return Tenant's Deposit (or so much there as has not theretofore been applied by Port), without payment of interest or other increment for its use, to Tenant within thirty (30) days of the Port's receipt of Subtenant's Deposit and thereupon Port shall be discharged from any further liability with respect to the Tenant's Deposit. Port's acceptance of Subtenant's Deposit or Port's return of Tenant's Deposit shall not constitute acceptance or a waiver of Tenant's default to the extent that Tenant's Deposit did not compensate fully Port for any losses or damages incurred by Port in connection with such default and shall not prejudice any other rights or remedies available to Port under the Lease or by law.

7. **Special Provisions**. Section 23 of the Lease is hereby amended in its entirety to read as follows:

23 Special Provisions.

23.1 Non-Discrimination.

(a)Covenant Not to Discriminate. In the performance of this Lease, Tenant covenants and agrees not to discriminate on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immunc Deficiency Syndrome or HIV status (AIDS/HIV status) against any employee of, any City employee working with, or applicant for employment with Tenant, in any of Tenant's operations within the United States, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations operated by Tenant.
(b)Subleases and Other Subcontracts. Tenant shall include in all Subleases and other subcontracts relating to the Premises a non-discrimination clause applicable to such

Subtenant or other subcontractor in substantially the form of subsection (a) above. In addition, Tenant shall incorporate by reference in all subleases and other subcontracts the provisions of Sections 12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code and shall require all Subtenants and other subcontractors to comply with such provisions. Tenant's failure to comply with the obligations in this subsection shall constitute a material breach of this Lease.

(c)Non-Discrimination in Benefits. Tenant does not as of the date of this Lease and will not during the Term, in any of its operations in San Francisco or with respect to its operations under this Lease elsewhere within the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in Section12B.2(b) of the San Francisco Administrative Code.

(d) Condition to Lease. As a condition to this Lease, Tenant shall execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" (Form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

(e) Incorporation of Administrative Code Provisions by Reference. The provisions of Chapters 12B and 12C of the San Francisco Administrative Code relating to non-discrimination by parties contracting for the lease of City property are incorporated in this Section by reference and made a part of this Lease as though fully set forth herein. Tenant shall comply fully with and be bound by all of the provisions that apply to this Lease under such Chapters of the Administrative Code, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Tenant understands that pursuant to Section12B.2(h) of the San Francisco Administrative Code, a penalty of $50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Lease may be assessed against Tenant and/or deducted from any payments due Tenant.

23.2. MacBride Principles - Northern Ireland.

The City and County of San Francisco urges companies doing business in Northern Ireland to move toward resolving employment inequities and encourages them to abide by the MacBride Principles as expressed in San Francisco Administrative Code Section-12F.1, et seq. The City and County of San Francisco also urges San Francisco companies to do business with corporations that abide by the MacBride Principles. Tenant acknowledges that it has read and understands the above statement of the City and County of San Francisco concerning doing business in Northern Ireland.

23.3. Tropical Hardwood Ban/Virgin Redwood.

The City and County of San Francisco urges companies not to import, purchase, obtain or use for any purpose, any tropical hardwood or tropical hardwood product. Except as permitted by the application of Sections 12I.3.b and 12I.4.b of the San Francisco

Administrative Code, Tenant shall not use any tropical hardwoods, tropical hardwood wood products, virgin redwood or virgin redwood wood product in the construction of any Improvements on the Premises.

23.4. Tobacco Product Advertising Prohibition.
Tenant acknowledges and agrees that no advertising of cigarettes or tobacco products shall be allowed on the leased premises. The foregoing prohibition shall include the placement of the name of a company producing, selling or distributing cigarettes or tobacco products or the name of any cigarette or tobacco product in any promotion of any event or product or on any sign. The foregoing prohibition shall not apply to any advertisement sponsored by a state, local or nonprofit entity designed to communicate the health hazards of cigarettes and tobacco products or to encourage people not to smoke or to stop smoking.

23.5. Proximity of Projects.
Tenant acknowledges that during the Term, the Port is undertaking the Ferry Terminal project, the renovation of the Ferry Building, and may in the future enter into agreements for the renovation of the Agriculture Building and Piers 1/2, 1 1/2, 3 and 5. Tenant is aware that the construction of such projects and the activities associated with such construction will generate certain adverse impacts that may result in some inconvenience to or disturbance of Tenant. Such impacts may include, but are not limited to, increased vehicle and truck traffic, traffic delays and re-routing, loss of street and public parking, dust, dirt, construction noise and visual obstructions. Tenant hereby waives any and all claims against the Indemnified Parties arising out of such inconvenience or disturbance, including without limitation any abatement or reduction of Rent.

23.6. Employee Signature Authorization Ordinance.
The City has adopted an Employee Signature Authorization Ordinance (S.F. Admin. Code §§23.31-23.35. That Ordinance requires employers of employees in hotel or restaurant projects on public property with more than 50 employees to enter into a "card check" agreement with a labor union regarding the preference of employees to be represented by a labor union to act as their exclusive bargaining representative. Tenant and Tenant's subtenants shall comply with the requirements of such Ordinance to the extent applicable to restaurant operations within the leased Premises.

23.7 Requiring Health Benefits for Covered Employees.
Unless exempt, Tenant agrees to comply fully with and be bound by all of the provisions of the Health Care Accountability Ordinance (HCAO), as set forth in San Francisco Administrative Code Chapter 12Q (Chapter 12Q), including the implementing regulations as the same may be amended or updated from time to time. The provisions of Chapter 12Q are incorporated herein by reference and made a part of this Lease as though fully set forth herein. The text of the HCAO is currently available on the web at www.ci.sf.ca.us\HCAO. Capitalized terms used in this Section and not defined in this Lease shall have the meanings assigned to such terms in Chapter 12Q.
(a) For each Covered Employee Tenant shall provide the appropriate health benefit set forth in Section 12Q.3.

(b) Notwithstanding the above, if Tenant meets the requirements of a "small business" by the City pursuant to Section 12Q.3(d) of the HCAO, it shall have no obligation to comply with part (a) above.

(c) Tenant understands and agrees that the failure to comply with the requirements of the HCAO shall constitute a material breach by Tenant of this Lease

(d) If, within 30 days after receiving written notice of a breach of this Lease for violating the HCAO, Tenant fails to cure such breach or, if such breach cannot reasonably be cured within such 30-day period Tenant fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City shall have the remedies set forth in Section 12Q.5(f)(1-5). Each of these remedies shall be exercisable individually or in combination with any other rights or remedies available to the City.

(e) Any Sublease or Contract regarding services to be performed on the leased Premises entered into by Tenant shall require the Subtenant or Contractor and Subcontractors, as applicable, to comply with the requirements of the HCAO and shall contain contractual obligations substantially the same as those set forth in this Section. Tenant shall notify the Purchasing Department when it enters into such a Sublease or Contract and shall certify to the Purchasing Department that it has notified the Subtenant or Contractor of the obligations under the HCAO and has imposed the requirements of the HCAO on the Subtenant or Contractor through written agreement with such Subtenant or Contractor. Tenant shall be responsible for ensuring compliance with the HCAO for each Subtenant, Contractor and Subcontractor performing services on the leased Premises. If any Subtenant, Contractor or Subcontractor fails to comply, the City may pursue the remedies set forth in this Section against Tenant based on the Subtenant's, Contractor's, or Subcontractor's failure to comply, provided that the Contracting Department has first provided Tenant with notice and an opportunity to cure the violation.

(f) Tenant shall not discharge, reprimand, penalize, reduce the compensation of, or otherwise discriminate against, any employee for notifying the City of any issue relating to the HCAO, for opposing any practice proscribed by the HCAO, for participating in any proceedings related to the HCAO, or for seeking to assert or enforce any rights under the HCAO by any lawful means.

(g) Tenant represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the requirements of the HCAO.

(h) Tenant shall keep itself informed of the requirements of the HCAO, as they may change from time to time.

(i) Upon request, Tenant shall provide reports to the City in accordance with any reporting standards promulgated by the City under the HCAO, including reports on Subtenants, Contractors, and Subcontractors.

(j) Within five (5) business days of any request, Tenant shall provide the City with access to pertinent records relating to any Tenant's compliance with the HCAO. In addition, the City and its agents may conduct random audits of Tenant at any time during the term of this Lease.

(k) Tenant agrees to cooperate with City in connection with any such audit. If a Contractor or Subcontractor is exempt from the HCAO because the amount payable to such Contractor or Subcontractor under all of its contracts with the City or relating to

City-owned property is less than $25,000 (or $50,000 for nonprofits) in that fiscal year, but such Contractor or Subcontractor later enters into one or more agreements with the City or relating to City-owned property that cause the payments to such Contractor or Subcontractor to equal or exceed $75,000 in that fiscal year, then all of the Contractor's or Subcontractor's contracts with the City and relating to City-owned property shall be thereafter subject to the HCAO. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements to equal or exceed $75,000 in the fiscal year.

23.8 Prevailing Wages. Tenant agrees that any person performing labor for the Construction Work (as defined in Section 2.3(e) above) shall be paid not less than the highest prevailing rate of wages and that Tenant shall include, in any contract for construction of such improvements, a requirement that all persons performing labor under such contract shall be paid not less than the highest prevailing rate of wages for the labor so performed. Tenant further agrees that, as to the construction of such improvements under this Lease, Tenant shall comply with all the provisions of subsection(b) of San Francisco Charter Section A7.204 and Sections 6.33 through 6.45 of the San Francisco Administrative Code (as the same may be amended, supplemented or replaced) that relate to payment of prevailing wages. Tenant shall require any contractor to provide, and shall deliver to City every month during any construction period, certified payroll reports with respect to all persons performing labor in the construction of any Improvements.

8. **Notices**. Paragraph 31 of the Lease is hereby amended in its entirety to read as follows:

All formal notices, demands, approvals, consents and other communications between the Port and Tenant must be in writing and will be deemed given and effective (A) upon personal delivery (including prepaid overnight delivery actually received) on a business day, or (B) three (3) business days after deposit in the United States mail, first class postage prepaid, to the Landlord or Tenant at their respective addresses for notice designated below. All notices must be properly addressed and delivered to the parties at the addresses set forth below or at such other addresses as either party may designate by written notice given in the manner provided in this Subsection:

To Port:

Port of San Francisco
Pier One
San Francisco CA 94111
Attn. Executive Director
Telephone:(415)274-0400
Facsimile: (415) 274-0578

With a copy (which shall not constitute notice) to:

San Francisco City Attorney
Port of San Francisco
Pier One
San Francisco CA 94111
Attention: Neil Sekhri, Esq.
Telephone: (415) 274-0484
Facsimile: (415) 274-0494

To Tenant:

Ferry Plaza Limited Partnership
c/o Chong Investment
838 Grant Avenue, Second Floor
San Francisco CA 94108
Attention: Tom Brothers
Facsimile: (415) 982-4896

With a copy (which shall not constitute notice) to:

CHAN, DOI, MARSHALL & LEAL, LLP
220 Montgomery Street, Suite 900
San Francisco CA 94104
Attention: Douglas S. Chan
Telephone: (415) 788-8988
Facsimile: (415) 788-8990

9. **Miscellaneous.** Section 34 of the Lease is amended in its entirety to read as follows:

(a) Inconsistency. In the event of any conflict, inconsistency, or incongruity between any provision of this Amendment and any provision of the Lease the terms and provisions of this Amendment shall govern and control.

(b) Time of Performance.

(i) Expiration. All performance dates (including cure dates) expire at 5:00 p.m., San Francisco, California time, on the performance or cure date.

(ii) Weekend or Holiday. A performance date which falls on a Saturday, Sunday or City holiday is deemed extended to 5:00 p.m. the next working day.

(iii) Days for Performance. All periods for performance or notices specified herein in terms of days shall be calendar days, and not business days, unless otherwise provided herein.

(iv) Time of the Essence. Time is of the essence with respect to each

provision of this Amendment, including, but not limited, the provisions for the exercise of any option on the part of Tenant hereunder and the provisions for the payment of Rent and any other sums due hereunder.

(c) Interpretation of Agreement.

(i) Exhibits. Whenever an "Exhibit" is referenced, it means an attachment to this Amendment unless otherwise specifically identified. All such Exhibits are incorporated herein by reference.

(ii) Captions. Whenever a section, article or paragraph is referenced, it refers to this Amendment unless otherwise specifically identified. The captions preceding the articles and sections of this Amendment and in the table of contents have been inserted for convenience of reference only. Such captions shall define or limit the scope or intent of any provision of this Amendment.

(iii) Words of Inclusion. The use of the term "including," "such as" or words of similar import when following any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific items or matters, whether or not language of non-limitation is used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such statement, term or matter.

(iv) No Presumption Against Drafter. This Amendment has been negotiated at arm's length and between persons sophisticated and knowledgeable in the matters dealt with herein. In addition, each Party has been represented by experienced and knowledgeable legal counsel. Accordingly, this Amendment shall be interpreted to achieve the intents and purposes of the Parties, without any presumption against the Party responsible for drafting any part of this Amendment (including, but not limited to, California Civil Code Section 1654).

(v) Fees and Costs. The Party on which any obligation is imposed in this Lease shall be solely responsible for paying all costs and expenses incurred in the performance thereof, unless the provision imposing such obligation specifically provides to the contrary.

(vi) Amendment References. Wherever reference is made to any provision, term or matter "in this Amendment, "herein" or "hereof" or words of similar import, the reference shall be deemed to refer to any and all provisions of this Amendment reasonably related thereto in the context of such reference, unless such reference refers solely to a specific numbered or lettered , section or paragraph of this Amendment or any specific subdivision thereof.

(vii) Approvals. Unless otherwise specifically stated in this Amendment, wherever a Party hereto has a right of approval or consent, such approval or consent shall not be unreasonably withheld, conditioned or delayed.

(d) One Third Party Beneficiary. This Amendment is for the exclusive benefit of the Parties hereto and for Subtenant only, and not for the benefit of any other Person (including, without limitation thereto, any other tenant, subtenant or assignee) and shall not be deemed to have conferred any rights, express or implied, upon any other Person without the express written consent of Port (which may be withheld or delayed by Port in Port's sole and absolute discretion).

(e) Entire Agreement. This Amendment (including the Exhibits) constitutes the entire agreement between the Parties with respect to the subject matter set forth therein, and supersedes all negotiations or previous agreements between the Parties with respect to all or any part of the terms and conditions mentioned herein or incidental hereto. No parol evidence of any prior of other agreement shall be permitted to contradict or vary the terms of this Amendment.

(f) Amendment. Neither this Amendment, the Lease nor any of the terms thereof may be terminated, amended or modified except by a written instrument executed by the Parties.

(g) Recordation. This Amendment will not be recorded by either Party. Upon the request of either Party, the Parties agree to execute and record in the Official Records a memorandum of lease reflecting this Amendment Promptly upon Port's request following the expiration of the Term or any other termination of the Lease. Tenant shall deliver to Port a duly executed and acknowledged quitclaim deed suitable for Recordation in the Official Records and in form and content satisfactory to Port for the purpose of evidencing in the public records the termination of Tenant's interest under the Lease. Port may record such quitclaim deed at any time on or after the termination of the Lease, without the need for any approval or further act of Tenant.

(h) Further Assurances. The Parties hereto agree to execute and acknowledge such other and further documents as may be necessary or reasonably required to express the intent of the Parties or otherwise effectuate the terms of this Amendment.

(i) Severability. If any provision of this Amendment, or its application to any Person or circumstance, is held invalid by any court, the invalidity or inapplicability of such provision shall not affect any other provision of this Amendment or the application of such provision to any other Person or circumstance, and the remaining portions of this Amendment shall continue in full force and effect, unless enforcement of this Amendment as so modified by and in response to such invalidation would be grossly inequitable under all of the circumstances, or would frustrate the fundamental purposes of this Amendment.

(j) Counterparts. To facilitate execution, this Amendment may be executed in as many counterparts as may be required, each of which, so executed, shall be deemed an original, and such counterparts shall together constitute but one and the same instrument. This Amendment shall not be effective until the execution and delivery between each of the parties of at least one set of counterparts. The parties authorize each other to detach and combine original signature pages and consolidate them into a single identical original. Any one of such

completely executed counterparts shall be sufficient proof of this Amendment.

10. **Plaza Maintenance**. Section 37 of the Lease is hereby amended to add the following language:

> Contemporaneously with the execution of this Third Amendment, Tenant shall deliver a letter to Port indicating Tenant's agreement to cooperate and negotiate in good faith with respect to the possible assumption by the tenant of the Ferry Building, Ferry Building Investors, of responsibility for the BCDC Permit Requirements (as hereinafter defined), including maintenance obligations, for the area immediately surrounding the Ferry Building commonly referred to in Exhibit A to the Second Amendment as the "Ferry Plaza East" which is presently subject to (i) BCDC Permit Nos. 10-73 and 7-97 which restrict uses to public access and impose certain landscaping and maintenance conditions (the "BCDC Permit Requirements"), and (ii) the easement granted to Tenant over Ferry Plaza East pursuant to the Second Amendment.

11. **Definitions.** As used in this Amendment, the following capitalized terms shall have the respective meanings defined below (such meanings to be equally applicable to both the singular and plural terms of the terms defined). Certain other capitalized terms are defined elsewhere above or in the Lease.

Effective Date as defined in the introduction paragraph hereof.

Party means Port or Tenant, as a party to this Amendment; Parties means both Port and Tenant, as Parties to this Amendment.

Person means any individual, partnership, corporation (including, but not limited to, any business trust), limited liability company, joint stock company, trust, unincorporated association, joint venture or any other entity or association, the United States, or a federal, state or political subdivision thereof.

Subtenant means World Trade Club of San Francisco, a California nonprofit corporation.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed by their respective authorized officers as of the date and year first written above.

"PORT"

CITY AND COUNTY OF SAN FRANCISCO, by and through its Port Commission

By: _____
DOUGLAS WONG
Its: Executive Director

Approved as to form:

_____
Louise Renne, City Attorney

"TENANT"

FERRY PLAZA LIMITED PARTNERSHIP, a California limited partnership

By: THE BAY CORPORATION, a California corporation

By: _____
STEPHEN TOM
Its: President

Its: General Partner

PORT OF SAN FRANCISCO

MEMORANDUM

September 20, 2001

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas Wong
Executive Director

SUBJECT: Authorize staff to proceed with the process of re-dedicating a public right-of-way of approximately twenty feet of Seawall Lot 337 located adjacent to Third Street between Terry Francois Boulevard and Mission Rock and approval of a Memorandum of Understanding with the Department of Public Works regarding the right-of-way.

DIRECTOR'S RECOMMENDATION: AUTHORIZE STREET RE-DEDICATION AND APPROVE MEMORANDUM OF UNDERSTANDING

I. BACKGROUND

The San Francisco Municipal Railway ("Muni") is in final design of the Phase I Initial Operating System for the Third Street Light Rail Project ("Project"). When completed, Phase I of the Project will extend rail service from Fourth and King Streets to a terminus approximately 5.4 miles away near Bayshore Boulevard and Sunnydale Avenue. Phase I of the Project will provide critical public light rail service to the new Mission Bay development and Third Street corridor neighborhoods including Potrero, the Central Waterfront, Bayview Hunters Point and Visitacion Valley.

In addition, Catellus Development Corporation ("Catellus") has developed a drainage plan for the Mission Bay South Redevelopment Plan Area that identifies certain new grades between the southern terminus of the Fourth Street Bridge and approximately four hundred (400) feet south of the intersection of Third and South Common Streets. The grade changes may best be achieved in conjunction with construction of the extension of Owens Street from the southern terminus of the Fourth Street Bridge to Third Street, and the street improvements to Third Street between the southern terminus of the Third Street Bridge and approximately four hundred (400) feet south of the intersection of Third and South Common Streets (the "Street Improvements").

This Print Covers Calendar Item No. **7B**

The Street Improvements are described in the improvement plans prepared by RBF Consulting entitled "Third Street Corridor – Mission Creek to South Common" approved by or on behalf of the Director, San Francisco Department of Public Works (the "Director") on July 31, 2001.

The Project and the Street Improvements necessitate the widening of Third Street into a portion of Seawall Lot 337 ("Property") as more particularly shown on the map attached hereto as Exhibit A. The Property is located along the easterly line of Third Street between Mission Rock Street and Terry Francois Boulevard and is owned by the City under the jurisdiction of the Port of San Francisco. The Property was previously part of Third Street but was vacated and subsequently leased to the China Basin Ballpark Company ("CBBC") pursuant to Lease No. L-12515, dated as of November 26, 1997 (the "CBBC Lease").

Pursuant to the CBBC Lease, the Port has reserved the right to take back a portion of the CBBC Premises for right-of-way purposes. Upon Port Commission approval of this resolution, the Port will enter into a letter agreement with CBBC, pursuant to the Lease, whereby CBBC will grant permission for construction of the Third Street Improvements within the leased premises, the CBBC Lease will be revised to omit the street area from the leased premises upon completion of the Third Street improvements, and CBBC will permit the slope easement, as described below.

II. ACTION

In order to accommodate the MUNI improvements and the proposed widening of Third Street, the City's Department of Public Works has requested the Port to authorize the dedication of that portion of Seawall Lot 337 extending approximately 20 feet east of the easterly edge of Third Street between Terry Francois Boulevard and Mission Rock Street, as shown in Exhibit A. The process for re-dedicating this street is set forth in the City's Public Works Code. This process has been initiated and staff is working with the Director of Public Works to notify utilities of the proposed re-dedication and address vehicle access issues. Once these steps have been completed, and subject to the Port Commission's approval of the street re-dedication, the Board of Supervisors will be asked to approve this action.

The Port is also seeking approval to enter into a Memorandum of Understanding ("MOU") granting the Department of Public Works the right to place, maintain and repair the Street Improvements located on the Property. Under the terms of the MOU, the Port will grant to DPW the non-exclusive right to place, maintain and repair the Third Street improvements located on the Property for so long as it is a dedicated public right-of-way. In addition, in order to accommodate the construction of the street improvements and the change of grade as a result of such street improvements, the Port also grants to DPW the right to maintain a slope within the Property (the "Slope Easement") until a time in the future when the MUNI improvements are installed and the street is regraded. The Slope Easement is also shown on Exhibit B, attached hereto, and lies approximately five (5) feet outside the new right of way line. DPW is responsible for all maintenance and repair on the Third Street Improvements at no cost to the Port, and shall be responsible for all claims for damages associated with activities occurring on the Third Street Improvements.

III. STAFF RECOMMENDATION

Staff recommends that the Port Commission authorize Port staff to complete the required procedures for the dedication of the Port Property. Final action will not occur until the Board of Supervisors approves the action.

Staff also recommends that the Port Commission authorize Port staff to enter into a Memorandum of Understanding with the Department of Public Works as described.

Prepared by: Terry Picon
Director of Real Estate

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 01-73

WHEREAS, Charter, Section B3.581grants the Port Commission the power and duty to use, conduct, operate, maintain, manage, regulate and control the Port area of San Francisco; and

WHEREAS, The San Francisco Municipal Railway ("Muni") is in final design of the Phase I Initial Operating System for the Third Street Light Rail Project ("Project"), which will extend rail service from Fourth and King Streets to a terminus approximately 5.4 miles away near Bayshore Boulevard and Sunnydale Avenue, and which will provide critical public light rail service to the new Mission Bay development and Third Street corridor neighborhoods; and

WHEREAS, Catellus Development Corporation ("Catellus") has developed a drainage plan for the Mission Bay South Redevelopment Plan Area that identifies certain new grades between the southern terminus of the Fourth Street Bridge and approximately four hundred (400) feet south of the intersection of Third and South Common Streets, that may best be achieved in conjunction with construction of the extension of Owens Street from the southern terminus of the Fourth Street Bridge to Third Street, and the street improvements to Third Street between the southern terminus of the Third Street Bridge and approximately four hundred (400) feet south of the intersection of Third and South Common Streets (the "Street Improvements"), which are described in the improvement plans prepared by RBF Consulting entitled "Third Street Corridor – Mission Creek to South Common" approved by or on behalf of the Director, San Francisco Department of Public Works (the "Director") on July 31, 2001; and

WHEREAS, The Project and the Street Improvements necessitate the widening of Third Street into a portion of Seawall Lot 337 located along the easterly line of Third Street between Mission Rock Street and Terry Francois Boulevard and is owned by the City under the jurisdiction of the Port of San Francisco ("Property"), as more particularly shown on the map attached hereto as Exhibit A; and

WHEREAS, The Property was previously part of Third Street but was vacated and subsequently leased to the China Basin Ballpark Company ("CBBC") pursuant to Lease No. L-12515, dated as of November 26, 1997 (the "CBBC Lease"); and

WHEREAS, The Planning Department has prepared a Final Subsequent Environmental Impact Report ("Final SEIR") for the development project contemplated in the Mission Bay South Plan Area, which was certified by Planning Commission Resolution No. 182-98; and

WHEREAS, The Port Commission reviewed and considered the information contained in the Final SEIR, and for purposes of compliance with CEQA, the proposed Third Street Improvements described in the Memorandum to Port Commissioners, dated September 20, 2001, for Item No. 7B of the Port Commission's September 25, 2001 regular meeting is part of the Mission Bay project examined in the Final SEIR for which the Port Commission, by Resolution No.98-86, has adopted findings with respect to the Final SEIR as required by CEQA, which findings are on file with the Secretary of the Port Commission under File No. 98-86, and which findings are incorporated herein by this reference;

WHEREAS, After completion of construction, Catellus will offer the Street Improvements to the City and the City will take action on accepting and dedicating the Street Improvements as a public right-of-way to be maintained by DPW; and

WHEREAS, It is necessary to notify the public of the possible re-dedication of the noted portion of Seawall Lot 337 prior to consideration and action by the Board of Supervisors; and

WHEREAS, The San Francisco Municipal Railway and the Department of Public Works, with the cooperation of the Port, is responsible for initiating the process for dedicating Port property so that the Department of Public Works can take various actions prior to consideration of the dedication of any City streets and has done so; and

WHEREAS, The Port Commission's approval of this item will allow the Department of Public Works to proceed through the legislative process to dedicate these streets; now, therefore, be it

RESOLVED, That the Port Commission hereby approves the dedication of the Property as a public right-of-way, and authorizes the Executive Director, or his designee, and the Board of Supervisors, and any other appropriate City department, to complete the procedures and take the actions necessary to re-dedicate the Property as a public right-of-way; and be it further

RESOLVED, That upon dedication of the Property as a public right-of-way, the Executive Director is hereby authorized and directed to enter into a Memorandum of Understanding with the Department of Public Works on the terms described herein.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 25, 2001.

_____

Secretary

PORT OF SAN FRANCISCO

MEMORANDUM

September 20, 2001

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Adoption of Resolution Supporting State Legislation for the James R. Herman International Cruise Terminal and Mixed Use Development and Brannan Street Wharf Park and Supporting Funding for Construction of the Brannan Street Wharf Park

DIRECTOR'S RECOMMENDATION: APPROVE EXPRESSION OF SUPPORT FOR STATE LEGISLATION TO ENABLE CONSTRUCTION OF A NEW CRUISE TERMINAL AT PIER 30-32 THAT WOULD INCLUDE PUBLIC ACCESS, AND TO PROVIDE FOR THE ACCELERATION OF THE CONSTRUCTION OF THE BRANNAN STREET WHARF PARK.

BACKGROUND

On May 25, 1999, the Port Commission approved Resolution No. 99-36, authorizing Port staff to issue an RFQ/P for the design and development of the Bryant Street Pier Project, including the James R. Herman Cruise Terminal, on Pier 30-32 and Seawall Lot 330 (Cruise Terminal project). On January 11, 2000, after an extensive review and evaluation of qualifications and proposals received, the Port Commission approved Resolution No. 00-03, authorizing Port staff to enter into exclusive negotiations with San Francisco Cruise Terminal LLC (SFCT) for the Project. The Port and SFCT signed an Exclusive Right to Negotiate (ERN) on January 25, 2000.

As originally proposed, the project included a two berth cruise terminal, commercial retail, office, parking and open space on Pier 30-32, and a 400 room hotel and 111 time share units on Seawall Lot 330. SFCT has diligently pursued its due diligence to determine project programming and feasibility. SFCT has conducted market research into various aspects of the project, undertaken physical and engineering investigations about the pier, and worked to address

concerns about the cruise terminal. As a result of these investigations, SFCT determined that the cost of seismically retrofitting the pier significantly increased. To offset these increased costs, SFCT proposed increasing the amount of proposed office space and proposed residential condominiums as an alternative to the hotel and time-share units on Seawall Lot 330. Presentations regarding the new development concept and the cruise terminal operations were made to the Port Commission earlier this year. The Port Commission has not authorized the changes to the proposed use program, and would not be expected to do so, pending further evaluation of the environmental and financial implications.

Since August 2000, Port staff, in conjunction with SFCT, have been working with the respective staffs of the State Lands Commission (SLC), Bay Conservation and Development Commission (BCDC) and Attorney General's Office to address the public trust issues raised by the inclusion of general office and certain retail uses (e.g., grocery and neighborhood serving retail). Such uses have not traditionally been allowed on public trust properties except on short-term leases and in renovated historic buildings that are on the National Register of Historic Places where the primary trust purposes were historic renovation and other traditional trust objectives such as public access (e.g., Pier 1 offices and the Ferry Building).

A year long dialogue ensued with SLC, BCDC and the Attorney General's Office as to whether the general office space and local serving retail (e.g., grocery, theater uses, and neighborhood serving retail) could be found consistent with the trust as incidental to the primary trust purposes of the cruise terminal development. SLC staff informed the Port on August 14, 2001 that in its view, the authorization of the use program would require action by the state Legislature in the exercise of its retained power as trustee.

Without legislation in the 2001 session, the Cruise Terminal would have been delayed by up to another full year because a determination on allowable uses is essential before SFCT could refine the design and program concepts necessary to environmental and public review of the proposed project.

The Port commenced a collaborative effort immediately with representatives from the SLC, Attorney General's office, BCDC and other interested groups to draft legislation necessary to solve the public trust issues presented by the Cruise Terminal project. The draft legislation also provided for the Legislature's ratification of the BCDC Bay Plan Amendments and Special Area Plan adopted in August 2000. Assembly Member Kevin Shelley agreed to sponsor legislation on September 7, 2001, provided that the Port commit to fully fund the Brannan Street Wharf prior to BCDC action on an application for the cruise terminal development, and to further accelerate the construction schedule for the Brannan Street Wharf. As amended, AB 1389 passed both the full Senate and Assembly on September 14, 2001 and awaits signature of the Governor (Exhibit A).

As you know, the Port had already committed to implement various public access improvements on the waterfront as identified in the BCDC Special Area Plan (SAP). The SAP stipulated that upon the Port's issuance of a certificate of occupancy for the project, the Port is obligated to: 1) construct the northern portion of the Brannan Street Wharf within 5 years; 2) remove Pier 36 within 15 years; and 3) complete the Brannan Street Wharf within 15 years if necessary grants or

other funding is available or within 20 years if grants or other funds are not available. AB 1389 would substantially accelerate the completion date as discussed below.

ANALYSIS

AB1389 will accomplish several critical items. The bill:

- ratifies the BCDC Bay Plan and SAP adopted in August 2000 as furthering the health, safety and welfare of public in the entire Bay Area;

- allows the sale of the former Main Street right-of-way, an approximately 12,000 square foot section of Seawall Lot 330, and provides for judicial validation of that action;

- allows 300,000 of leasable square feet of office space on Pier 30-32, all of which must be marketed to trust tenants, above the ground level and designed to promote visual and public access. An additional 25,000 square feet in the cruise ship terminal building is allowable for no longer than 14 years, converting to trust use at that time, or sooner if needed for cruise terminal expansion;

- allows a limited amount of local serving (non-trust) retail (i.e., there must be a greater amount of trust-consistent retail and the ratio of trust and non-trust retail space must be at least 40% of the total office leasable space); and

- assures and significantly accelerates the timing of the completion of the Brannan Street Wharf. With review by BCDC, the Port must approve the final design concept prior to submittal of a major permit application to BCDC. The Port must also demonstrate to the satisfaction of BCDC and the Attorney General's Office that it has encumbered all funds necessary for the completion of the Brannan Street Wharf and has placed these funds in a segregated account prior to issuance of a BCDC permit. These funds must be available to be drawn upon the construction of the Brannan Street Wharf. The Port and BCDC must enter into an enforceable agreement that requires the Port to fund, directly or through grant funding, and complete the Wharf consistent with the following time frame: a) construct the northern portion of the Brannan Street Wharf contemporaneously with the construction of the Cruise Terminal, and b) remove Pier 36 and complete the Brannan Street Wharf no later than five years after the commencement of construction of the Cruise Terminal.

Since there is a current Pier 36 tenant, Delancey Street Foundation, the Port is obliged to actively assist them in finding suitable alternative space for their operations and to do this in a timely manner.

It is important to note that AB1389 does not commit the Port Commission to approving the Cruise Terminal project. Any such approval would only occur upon completion of environmental review under California Environmental Quality Act and upon successful completion of negotiations between the Port and SFCT of a Lease Disposition and Development Agreement and Ground Lease upon terms satisfactory to the Port Commission. The Board of Supervisors also must approve the form of Ground Lease.

In addition, BCDC expressly retains all of its regulatory permit authority over the Cruise Terminal project, including design review and determination of maximum feasible public access. The Regional Water Quality Control Board and the U.S. Army Corps of Engineers will also review the Cruise Terminal project.

STAFF RECOMMENDATION

This legislation is necessary for the Cruise Terminal project to move forward. Staff recommends that the Port Commission expresses its support of the Cruise Terminal project by approving the attached resolution. In addition, due to Legislative counsel staff error in the compressed time frame of the Legislature's session following the September 11, 2001 tragedy, there are a few typographical errors in the bill that must be corrected to make it consistent with the final draft that the Port presented to various reviewing agencies and organizations. We seek your direction to correct those errors. We also seek your support of staff efforts to immediately solicit grant funding for the Brannan Street Wharf, and to bring to you recommendations for action in the upcoming capital plan budgeting process to set aside funds as necessary to meet the commitment to accelerate the Brannan Street Wharf.

Prepared by: John Doll
Development Project Coordinator

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 01-75

WHEREAS, The Port Commission is the trustee of those certain lands located along the San Francisco waterfront transferred to the City and County of San Francisco, in trust, by transfer agreement pursuant to the Burton Act (Chapter 1333 of the Statutes of 1968, as amended); and

WHEREAS, Pursuant to the Burton Act, the Commission has complete authority to do all things it deems necessary in connection with the use, conduct, operation, management, maintenance, regulation, improvement and control of the harbor of San Francisco which are not prohibited by State law or the City Charter and which are in conformance with the Burton Act, including reconstruction and repair of public or commercial buildings, preservation or restoration of marine resources, and the lease of said facilities for limited periods not exceeding 66 years for purposes consistent with the trusts upon which the lands are held by the State and with the requirements of commerce and navigation; and

WHEREAS, In 1997, the Port of San Francisco adopted the Waterfront Land Use Plan, representing the culmination of hundreds of public meetings, thousands of hours of staff time, and the full input of a state agency, the San Francisco Bay Conservation and Development Commission (BCDC), which also exercises trust responsibilities along the San Francisco Waterfront; and

WHEREAS, Subsequently, after more than five years of negotiation and discussion, on July 20, 2000, BCDC adopted amendments to its Special Area Plan for the San Francisco Waterfront and the Port adopted conforming amendments to the Waterfront Plan to ensure that both plans were consistent with each other; and

WHEREAS, The Waterfront Land Use Plan and the Special Area Plan recognize that the development of Pier 30-32 and the surrounding area within the South Beach/China Basin Subarea identified in the Waterfront Land Use Plan should further the trust purposes of increasing maritime activities and expanding public use and enjoyment of the waterfront on trust lands at this location; and

WHEREAS, In 1998, the Port evaluated alternative locations for a new cruise ship terminal and concluded that Pier 30-32 was the most viable site for a new cruise terminal in San Francisco because of dredging, site configuration and development considerations; and

WHEREAS, The Pier 30-32 platform bayward of the Embarcadero consists of obsolete, pile-supported piers structures that are physically not capable of safely supporting the proposed cruise terminal development without substantial modification and repair; and

WHEREAS, on May 25, 1999 the Commission approved Resolution No. 99-36, authorizing Port staff to issue a Request for Qualifications and Proposals ("RFQ/P) for the Bryant Street Pier Project, in order to assess the availability of private investment to achieve its development objectives and determine and level of interest in the private sector; and

WHEREAS, the RFQ/P identified the following project goals and objectives: (1) provide a signature mixed use waterfront project which achieves a high level of year-round public use and support; (2) include development of the state-of-the-art Cruise Terminal which enhances the Port's international reputation as a first class cruise destination and preserves and creates new maritime jobs on this site and through San Francisco's waterfront; (3) achieve a use and design program which respects and complements the existing South Beach neighborhood; and (4) provide for the enhancement of the Port's financial position over the term of the leasehold; and

WHEREAS, on January 11, 2000 the Commission approved Resolution No. 00-03, awarding SFCT the opportunity to enter into an Exclusive Right to Negotiate agreement; and

WHEREAS, Port staff and SFCT have worked diligently to develop information, resolve potential problems, negotiate financial terms and risk allocation, including responding to pier conditions and costs necessary for construction of the cruise terminal that are significantly in excess of those anticipated, while adhering to the project major goals, primary objectives and criteria for evaluation, as set forth above, at minimal cost and risk to public trust resources; and

WHEREAS, the Cruise Terminal design features a two-berth, major international cruise ship terminal with all required and attendant facilities, consistent with the Waterfront Plan and San Francisco General Plan policies to retain and support maritime facilities in mixed-use settings wherever possible in the South Beach/China Basin Subarea; and

WHEREAS, the development program proposed by the developer includes a mix of extensive public access amenities, facilities for waterborne transit, trust-consistent retail uses, and incidental office and retail uses designed to deliver a unique, vibrant and economically feasible project consistent with the objectives of the Waterfront Plan, Special Area Plan, and RFQ/P; and

WHEREAS, Pursuant to the Special Area Plan implementation requirements, the approval and construction of the proposed development at Pier 30-32 requires that the construction of Phase 1 of the Brannan Street Wharf be completed no later than five years after issuance of a certificate of occupancy for the major reuse of Pier 30-32 and that the entire Brannan Street Wharf be completed no later than fifteen years after issuance of a certificate of occupancy for the major reuse of Pier 30-32 if grant funds or other funding are available or twenty years if not; and

WHEREAS, The Brannan Street Wharf will provide an essential recreational element to serve the Public Trust as provided in the Special Area Plan, and the Public Trust will benefit by the acceleration of the construction of the Brannan Street Wharf be accelerated; and

WHEREAS, The Port has requested concurrence from the State Lands Commission staff and the Attorney General's office that the proposed mixed-use Cruise Terminal development is consistent with the Public Trust; and

WHEREAS, The State Lands Commission staff and the Attorney General's office have advised that such concurrence may be made by the State Legislature in the exercise of its retained power as trustee of the Public Trust, and in view of the unique circumstances existing at Pier 30-32 on the San Francisco waterfront and the considerable statewide public benefit and promotion of maritime transportation that will be brought about by construction of a new passenger cruise terminal, improvements to berthing facilities for waterborne transit, a lagoon, improved public access and commercial Public Trust uses at Pier 30-32 this site, authorizes the San Francisco Port Commission to approve a cruise terminal development on the San Francisco waterfront at Pier 30-32 which includes general office use and general retail use; and

WHEREAS, In the event the Port desires to allow development of Seawall Lot 330 for non-trust uses, it will be in the Port's interests to obtain legislation lifting the Public Trust from certain street areas within Seawall Lot 330 that are no longer needed for trust purposes, in accordance with the California Constitution Section 3, Article X; and

WHEREAS, After an intensive collaborative effort commencing August 14, 2001, with the SLC, Attorney General's office, BCDC staff and other interested groups the Port proposed draft legislation necessary to solve the public trust issues presented by the Cruise Terminal project; and

WHEREAS, Assemblymember Kevin Shelley agreed to sponsor the legislation if the Port committed to fund the Brannan Street Wharf prior to BCDC's issuance of a permit for the cruise terminal development and complete the improvements earlier than required under the Special Area Plan through investment of approximately $15 million in the removal of 175,000 square feet of pile-supported fill and development of the Wharf; and

WHEREAS, AB 1389 provides for authorization of a mixed use program for the cruise terminal development, subject to conditions in furtherance of the public trust objectives, as further described in the staff report for this item and the bill is attached as an exhibit to this resolution; and

WHEREAS, AB 1389 passed both the full Senate and Assembly on September 14, 2001 and awaits signature of the Governor; and

WHEREAS, The Port Commission is fully committed to accelerating the completion of the Brannan Street Wharf by committing funding thereto in sufficient amounts to meet the schedule set forth in Assembly Bill No. 1389; now, therefore, be it

RESOLVED, That the Port Commission endorses and supports Assembly Bill No. 1389 and urges the Governor to sign the Bill; and be it further

RESOLVED, That the Port Commission hereby expressly commits to implementing the requirements of Assembly Bill No. 1389, including without limitation: (1) approving the final design concept for the Brannan Street Wharf prior to submittal of a major permit application for the Cruise Terminal to BCDC, (2) demonstrating to the satisfaction of BCDC and the Attorney General's Office that the Port has encumbered all funds necessary for the completion of the Brannan Street Wharf and has placed these funds in a segregated account prior to issuance of a BCDC permit for the Cruise Terminal project available to be drawn upon for the construction of the Brannan Street Wharf, (3) entering into an enforceable agreement with BCDC that provides that the Port will fund, directly or through grant funding, and complete the construction consistent with the following time frame: a) construction of the northern portion of the Brannan Street Wharf contemporaneously with the construction of the Cruise Terminal, and b) removal of Pier 36 and completion of the Brannan Street Wharf no later than five years after the commencement of construction of the Cruise Terminal; and be it further

RESOLVED, That the Port Commission authorizes and directs the Executive Director of the Port in preparing future Port capital plans for Port Commission approval to incorporate sufficient funding to permit sufficient segregated funds to allow for the accelerated construction of the Brannan Street

Wharf in accordance with the schedule required in Assembly Bill 1389; and, be it further

RESOLVED, That the Port Commission authorizes and directs the Executive Director of the Port to diligently pursue additional means of financing for the Brannan Street Wharf, including, without limitation, federal, state and local grant funding or other financial assistance; and, be it further

RESOLVED, That the Port Commission authorizes and directs the Executive Director to take steps necessary to correct the typographical errors in the bill to ensure that the intent of the legislation was as represented by the Port to various agencies and organizations; and, be it further

RESOLVED, That the Port Commission expresses its appreciation to Assemblymember Shelley, and the State Lands Commission, the Attorney General's Office, BCDC, Save the Bay, the South Beach Citizens Advisory Committee, Delancey Street Foundation and other concerned citizens and organizations whose consideration and attention to this matter were instrumental in allowing the Port to advance in its effort to achieve a vitally important maritime and public access project.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 25, 2001.

_____
Secretary

EXHIBIT A

AMENDED IN SENATE SEPTEMBER 14, 2001

AMENDED IN SENATE SEPTEMBER 13, 2001

AMENDED IN SENATE SEPTEMBER 7, 2001

AMENDED IN SENATE JULY 12, 2001

AMENDED IN SENATE JUNE 20, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

ASSEMBLY BILL No. 1389

Introduced by Assembly Member Shelley

February 23, 2001

An act relating to lands granted in trust to the City and County of San Francisco.

LEGISLATIVE COUNSEL'S DIGEST

AB 1389, as amended, Shelley. San Francisco waterfront: cruise ship terminal development.

Under existing law (the Burton Act), the state granted certain lands to the City and County of San Francisco in trust for purposes of commerce, navigation, and fisheries, and subject to specified terms and conditions relating to the operation of the Port of San Francisco. Existing law (the McAteer-Petris Act) establishes the San Francisco Bay Conservation and Development Commission and requires the commission to regulate fill and development within a specified area in San Francisco Bay.

This bill would declare specified areas along the San Francisco waterfront to be free from the public trust for commerce, navigation,

and fisheries, as provided, and would authorize the San Francisco Port Commission to approve a cruise ship terminal development, other maritime facilities, and commercial and office space on a specified area of the San Francisco waterfront. The bill would authorize the State Lands Commission to convey to the City and County of San Francisco all of the rights, title, and interest held by the state in trust to specified lands along the waterfront, but would prescribe terms and conditions for the use of those lands in connection with the cruise ship terminal development, as provided.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. For purposes of this chapter, the following terms have the following meanings:

(a) "BCDC" means the San Francisco Bay Conservation and Development Commission established pursuant to Section 66620 of the Government Code.

(b) "Bay jurisdiction" means the jurisdiction, powers, and duties of BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code within the area defined in subdivision (a) of Section 66610 of the Government Code.

(c) "Bay Plan" means the San Francisco Bay Plan as adopted and administered by BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code, including all amendments thereto.

(d) "Boundary of the Port of San Francisco" means that line defining the boundary of "Parcel A" in the description of the lands transferred in trust to the City and County of San Francisco pursuant to Chapter 1333 of the Statutes of 1968, recorded on May 14, 1976, in Book C169, pages 573 to 664, inclusive, in the City and County of San Francisco Recorder's Office.

(e) "Brannan Street Wharf" means a major San Francisco waterfront park in the area of Piers 34 and 36, as identified in the Special Area Plan.

(f) "Burton Act" means Chapter 1333 of the Statutes of 1968, as amended.

(g) "Burton Act trust" means the statutory trust imposed by the Burton Act (Chapter 1333 of the Statutes of 1968, as amended),

pursuant to which the state conveyed to the City and County of San Francisco, in trust, by transfer agreement, and subject to certain terms, conditions, and reservations, the state's interest in certain tide and submerged lands.

(h) "City" means the City and County of San Francisco.

(i) "McAteer–Petris Act" means Title 7.2 (commencing with Section 66000) of the Government Code.

(j) "Public trust" or "trust" means the public trust for commerce, or navigation and fisheries.

(k) "Port" means the City and County of San Francisco acting by and through the San Francisco Port Commission.

(*l*) "San Francisco Bay" means those areas defined in Section 66610 of the Government Code.

(m) "San Francisco waterfront" means those portions of the area transferred to the port pursuant to the Burton Act that also lie within the area defined in subdivisions (a) and (b) of Section 66610 of the Government Code.

(n) "Seawall Lot 330" means that parcel of property located in San Francisco identified on that certain map entitled SUR 790, and shown on Page 318 of the City and County of San Francisco 100 Scale Ownership Maps, which is on file with the city's Bureau of Street Use and Mapping.

(o) "Shoreline band jurisdiction" means the jurisdiction, powers, and duties of BCDC pursuant to Title 7.2 (commencing with Section 66600) of the Government Code to regulate uses within the area defined in subdivision (b) of Section 66610 of the Government Code to ensure, in part, maximum feasible public access, as prescribed in Section 66632.4 of the Government Code.

(p) "Special Area Plan" means the San Francisco Waterfront Special Area Plan, dated July 20, 2000, adopted by BCDC, as amended from time to time.

(q) "Street" means those lands located within the South Beach/China Basin Planning area of the San Francisco waterfront at Seawall Lot 330, and also lying within Parcel A of those lands transferred to the City and County of San Francisco pursuant to the Burton Act, as recorded May 14, 1969, in Book C 169 at Pages 573 to 664, inclusive, in the San Francisco Recorder's office, as more particularly described as that portion of Main Street, located between Bryant Street and the Embarcadero, vacated per Ordinance 14-93 on January 11, 1993, on file with the San

Francisco Bureau of Street Use and Mapping, in Book 10, Page 94. All streets and street lines described in the preceding sentence are in accordance with that certain map entitled SUR 790, and shown on Page 318 of the City and County of San Francisco 100 Scale Ownership Maps, on file with the City's Bureau of Street Use and Mapping.

(r) "Waterfront Land Use Plan" means the Waterfront Land Use Plan, including the Waterfront Design and Access Element, adopted by the port pursuant to Resolution No. 97–50, as amended from time to time.

SEC. 2. The Legislature finds and declares all of the following:

(a) In 1965, the Legislature adopted the McAteer–Petris Act to protect and enhance the San Francisco Bay and its natural resources. The McAteer–Petris Act grants BCDC regulatory authority over further filling in San Francisco Bay through exercise of its bay jurisdiction, and limits that activity to (1) water-oriented uses that meet specified criteria; (2) minor fill that improves shoreline appearance or public access; and (3) activities necessary for the health, safety and welfare of the public in the entire bay area. The McAteer-Petris Act also authorizes BCDC to require the provision of maximum feasible access to the bay consistent with the project over a 100-foot shoreline band through the exercise of its shoreline band jurisdiction.

(b) In 1969, pursuant to the Burton Act, the state conveyed by transfer agreement certain state tide and submerged lands to the Port. The lands are held by the Port in trust for purposes of commerce, navigation, and fisheries, and are subject to the terms and conditions specified in the Burton Act and the public trust. During the three decades since passage of the Burton Act, issues have arisen concerning the application of the McAteer–Petris Act to the piers along the San Francisco waterfront. To address those issues, BCDC and the Port undertook two intensive and careful planning processes, which lasted over nine years.

(c) The first process culminated in 1997 with the adoption by the Port of the Waterfront Land Use Plan and with the adoption by the Board of Supervisors of the City and County of San Francisco and the Planning Commission of the City and County of conforming amendments to the City's General Plan and Planning Code.

(d) In July 2000, after the second five-year cooperative process involving the Port, BCDC, the Save San Francisco Bay Association, and numerous interested community groups and individuals, was completed, the Port adopted further amendments to the Waterfront Land Use Plan. BCDC also adopted amendments to the Special Area Plan which is incorporated into, and made a part of, the San Francisco Bay Plan, to create consistent plans for the area of the San Francisco waterfront between Pier 35 and China Basin. At the present time, the Waterfront Land Use Plan addresses specific McAteer–Petris Act issues relating to public access and the preservation and enhancement of open water as a bay resource in this area. The plan also defines public access opportunities on each pier in this area and calls for the removal of certain additional piers to enhance water views and create additional bay surface area.

(e) A major objective of the joint effort described in subdivisions (b), (c), and (d) is to establish a new criterion in the San Francisco Bay Plan that would permit fill on the San Francisco waterfront in an area where a Special Area Plan has been adopted by BCDC for uses that are consistent with the public trust and the Burton Act trust. The Special Area Plan for the area between Pier 35 and China Basin should provide for all of following:

(1) The nature and extent of maximum feasible public access for the piers including perimeter access, a history walk on most piers, and other significant access features on piers where appropriate.

(2) Two major public plazas, the Brannan Street Wharf adjacent to Pier 30-32 and another in the vicinity of Pier 27.

(3) A public planning process to lead to the creation of a third major public plaza in the Fisherman's Wharf area.

(4) The removal of certain piers to uncover additional bay surface.

(5) The creation and funding of a special fund within the Port to finance the removal of the selected piers and the construction and maintenance of those public plazas.

(6) A historic preservation mechanism to ensure preservation of important historic resources on the piers.

(7) The ability of the Port to repair, improve, or use the piers not designated for removal between Pier 35 and China Basin for

any purpose consistent with the Burton Act, the public trust and the Special Area Plan.

(f) The San Francisco waterfront, which has been the subject of this planning process, provides benefits to the entire bay area, and serves as a unique destination for the region's public. These regionwide benefits include enjoyment of a unique, publicly owned waterfront that provides special maritime, navigational, recreational, cultural, and historical benefits that serve the bay area. Accordingly, the adoption by BCDC, and the ratification by the Legislature, of the Special Area Plan, as amended, is necessary to protect the health, safety, and welfare of the public in the entire bay area for purposes of subdivision (f) of Section 66632 of the Government Code.

SEC. 3. The Legislature also hereby finds and declares all of the following with respect to Seawall Lot 330 and the street:

(a) The lands comprising the street are tide and submerged lands that have been filled and reclaimed, and were reserved to the state solely for street purposes.

(b) The filled and reclaimed tide and submerged lands constituting the street have been filled and reclaimed for, and in connection with, a highly beneficial plan of improvement for harbor development.

(c) The street is not used, suitable, or necessary for navigation purposes and is not necessary, or used for street purposes.

(d) The street or any interests in the street that are to be sold by the city, and over which the Burton Act trust and the public trust will be terminated, constitute a relatively small portion of the granted tide and submerged lands.

(e) Section 3 of Article X of the California Constitution permits the sale to any city, county, city and county, municipal corporation, private person, partnership, or corporation of tidelands reserved to the state solely for street purposes, which tidelands the Legislature finds and declares are not used and not necessary for navigation purposes, subject to such conditions as the Legislature may impose to protect the public interest.

(f) The existence of the street limits the potential development of Seawall Lot 330. The proposed sale will be consistent with Section 3 of Article X of the California Constitution, if all of the following conditions are met:

(1) The consideration for the sale of the street, pursuant to Section 3 of Article X of the California Constitution, shall be the fair market value of those lands or interests in the lands.

(2) The street to be sold by the city and over which the public trust or the Burton Act trust, or both trusts, will be terminated has been filled and reclaimed, and the street consisting entirely of dry land lying above the present line of mean high tide is no longer needed or required for the purposes of the public trust or the Burton Act trust.

(3) The street to be sold by the city and over which the public trust or the Burton Act trust, or both trusts, will be terminated has been cut off from direct access to the waters of San Francisco Bay by past filling of intervening property for a major roadway (the Embarcadero), which has provided, and will continue to provide, lateral public access to the water.

(4) The street was reserved to the state for street purposes and is not used or necessary for navigation purposes. Therefore, in accordance with Section 3 of Article X of the California Constitution, that street can and should be conveyed into private ownership for uses consistent with, and in furtherance of, this act.

(5) The sale of the street shall occur only in conjunction with a simultaneous exchange of the state's sovereign title in Seawall Lot 330 pursuant to Chapter 310 of the Statutes of 1987, according to the terms and conditions required by the State Lands Commission, or other disposition of the state's sovereign title in Seawall Lot 330 approved by the State Lands Commission or the Legislature.

(g) It is therefore the intent of the Legislature, subject to the terms and conditions set forth in this act to authorize the city to dispose of the street for private use free from the public trust or the Burton Act trust.

SEC. 4. The Legislature further finds and declares that the following unique circumstances exist at Pier 30-32 on the San Francisco waterfront, and that therefore, this act sets no precedent for any other location or project in the state:

(a) The Pier 30-32 platform bayward of the Embarcadero consists of an obsolete, pile-supported pier structures that are physically no longer capable of serving most trust-related purposes without substantial modification and repair.

(b) San Francisco is the center of northern California's cruise activity. The need for a new cruise ship terminal has been recognized for over 40 years, most recently in a 1998 assessment by the Port that found that cruise industry experts considered the present terminal at Pier 35 on the San Francisco waterfront to be inferior to other cruise terminals in the United States. That assessment also concluded that the existing San Francisco passenger terminal at Pier 35 cannot accommodate modern cruise ships. Without a new passenger terminal, California stands to lose a significant portion of the cruise ship business it presently enjoys, which would also adversely affect the many maritime industries dependent on a healthy cruise industry.

(c) The Port's 1998 assessment evaluated alternative locations for a new cruise ship terminal and concluded that Pier 30-32 was the most viable site for a new cruise terminal in San Francisco because of dredging, site configuration, and development considerations.

(d) The Waterfront Land Use Plan and the Special Area Plan recognize that the development of Pier 30-32 and the surrounding area within the South Beach/China Basin subarea identified in the Waterfront Land Use Plan would further the public trust purposes of increasing maritime activities and expanding public use and enjoyment of the waterfront on trust lands at this location.

(e) The Port has solicited proposals and has chosen a developer for a mixed-use development at Pier 30-32, the primary purposes of which are to promote waterborne transportation at the port by constructing the James R. Herman International Cruise Terminal at Pier 30-32, and to further public use and enjoyment of the tidelands at this location by providing boat berths, public access, and substantial ground floor commercial public trust uses.

(f) In addition to being a destination for cruise ships, the planned improvements include berthing facilities for waterborne transit, such as water taxis and commercial excursion and recreational boats that will promote local waterborne transit and establish the proposed development at Pier 30-32 as a water-side destination for recreational boating.

(g) The Brannan Street Wharf will lie adjacent to Pier 30-32. Pursuant to the Special Area Plan implementation requirements, the approval and construction of the proposed development at Pier 30-32 requires that the construction of Phase I of the Brannan

Street Wharf be completed no later than five years after the issuance of a certificate of occupancy for the major reuse of Pier 30-32, and that the entire Brannan Street Wharf be completed no later than 15 years after issuance of a certificate of occupancy for the major reuse of Pier 30-32, if grant funds or other funding are available, or 20 years if not. The Brannan Street Wharf will provide an essential recreational element to serve the public trust as provided in the Special Area Plan. Accordingly, it is desirable that the construction of the Brannan Street Wharf be accelerated.

(h) The Port is committed to the construction of the Brannan Street Wharf earlier than required under the Special Area Plan through investment of approximately fifteen million dollars ($15,000,000) for the removal of 175,000 square feet of pile-supported fill and development of public access improvements, to be funded primarily by revenue from port operations, including the development of Pier 30-32.

(i) The proposed development of a cruise ship terminal at Pier 30-32 will require a substantial capital investment to improve the piles and decking. The Port must conserve port revenue to support those maritime uses and public improvements for which private investment is not economical. Therefore, the Port cannot directly fund all necessary capital improvements to construct new needed maritime facilities, including a new passenger terminal and associated improvements.

(j) Under applicable regulations, and due to the limited, seasonal (May through September) nature of the cruise ship operation, cruise ships will use the cruise terminal only approximately 65 to 100 days per year.

(k) The inclusion of public access structures, a lagoon, transient boat berthing, commercial public trust uses, together with a new passenger terminal, promotes the trust objectives of furthering maritime commerce and improving public access and use on the San Francisco waterfront.

(*l*) The inclusion of upper level general office space at Pier 30-32 is proposed because it provides a needed incentive for private investment. To the extent the office space is not occupied by trust tenants, it is not a trust use, notwithstanding its importance as a financial inducement.

SEC. 5. The Legislature, in the exercise of its retained power as trustee of the public trust, and in view of the unique

circumstances existing at Pier 30-32 on the San Francisco waterfront and the considerable statewide public benefit and promotion of maritime transportation that will be brought about by the construction of a new passenger cruise ship terminal, improvements to berthing facilities for waterborne transit, a lagoon, improved public access and commercial public trust uses on this site, hereby authorizes the Port to approve a cruise ship terminal development on the San Francisco waterfront at Pier 30-32, which would include general office use and general retail use, if all of the following conditions are met:

(a) The development includes a modern two-berth cruise ship terminal.

(b) The development includes a public access component that meets the requirements of the Special Area Plan and the San Francisco Bay Plan as interpreted by BCDC and that also offers expanded bay views and public access.

(c) Prior to submitting a major permit application to BCDC for the cruise ship terminal development, the Port, after review by or on behalf of BCDC, approves the final design concept for the Brannan Street Wharf.

(d) Prior to the issuance of a BCDC permit for the cruise ship terminal development, the Port demonstrates, to the satisfaction of BCDC and the Attorney General's office, that it has irrevocably encumbered all of the funds deemed necessary for the completion of the Brannan Street Wharf and has placed the funds in a segregated account guaranteed to be available to be drawn upon for the construction of the Brannan Street Wharf, and the Port and BCDC enter into an enforceable agreement that provides for the Port to fund, directly or through grant funding, or both, design, and construct the Brannan Street Wharf consistent with the following timetable:

(1) The Port shall complete preliminary engineering drawings for the Brannan Street Wharf and prepare and submit to BCDC a financing plan approved by the Port indicating funding sources and estimated construction costs at the time the construction of the cruise ship terminal development commences.

(2) The Port shall complete Phase 1, the northern portion of the Brannan Street Wharf (in the area of Pier 34), as described in the Special Area Plan contemporaneously with the construction of the cruise terminal development.

(3) The Port shall remove Pier 36 and complete the Brannan ~~Street Wharf contemporaneously with the cruise ship terminal~~ *Street Wharf no later than five years after commencement of construction of the cruise ship terminal* development.

(e) The amount of office space in the development does not exceed 300,000 leasable square feet, all of which shall be above the ground level. This office space shall also be designed to contribute to a development design that includes public spaces and promotes visual and public access. An additional 25,000 leasable square feet of space in the cruise ship terminal building may be used for general office use until the earlier of either of the following:

(1) Fourteen years from the first date of occupancy.

(2) When home berthing ships above 5,000 passenger berth capacity call for 15 days per year for two consecutive years.

(f) The development includes a marketing program designed to maximize the amount of general office space occupied by trust-related tenants over the life of the development.

(g) The cruise ship terminal as approved by BCDC complies with the requirements set forth in this subdivision. For purposes of this subdivision only, "trust retail" means visitor serving public trust retail and restaurant use. "Nontrust retail" means other retail, indoor public assembly, and theatre uses. The amount of trust retail leasable space shall be equal to or greater than the nontrust retail leasable space. The amount of trust and retail leasable space, nontrust retail leasable space, and visitor serving trust use converted from trust or nontrust retail approved by BCDC, as approved by BCDC, shall be at least 40 percent of the total amount of office leasable space.

SEC. 6. The Legislature finds and declares that the 2000 amendments of the San Francisco Bay Plan and the Special Area Plan by BCDC are authorized under subdivision (f) of Section 66632 of the Government Code as necessary to protect the health, safety, and welfare of the public in the entire Bay Area, and BCDC's actions with respect to those amendments are hereby ratified and confirmed.

SEC. 7. Notwithstanding the Special Area Plan and the Bay Plan requirement for findings of consistency with the public trust doctrine and the Burton Act, BCDC is authorized to approve the cruise ship terminal development trust as provided in this act.

Except as provided in Section 14 of this act, nothing in this act is intended to limit the discretion of BCDC to approve or deny permits for the projects described in this act in a manner consistent with the McAteer-Petris Act, the Bay Plan, the Special Area Plan, and this act, or to limit the discretion of BCDC to enforce permits issued for the projects described in this act.

SEC. 8. (a) For the purpose of effectuating the sale of the street, including the conveyance of the street by the city, free of the public trust and the Burton Act trust, the State Lands Commission may convey to the city by patent all of the rights, title, and interest held by the state by virtue of its sovereign trust title to the street, including any public trust interest or Burton Act reservation or trust interest, not heretofore conveyed, subject to any reservations the State Lands Commission determines appropriate.

(b) In any case where the state, pursuant to this act, conveys filled tidelands and submerged lands transferred to the city pursuant to the Burton Act, the state shall reserve all minerals and all mineral rights in the lands of every kind and character now known to exist or hereafter discovered, including, but not limited to, oil and gas and rights thereto, together with the sole, exclusive, and perpetual right to explore for, remove, and dispose of those minerals by any means or methods suitable to the state or to its successors and assignees, except that, notwithstanding the Burton Act, or Section 6401 of the Public Resources Code, any such reservation shall not include the right of the state or its successors or assignees in connection with any mineral exploration, removal, or disposal activity, to do either of the following:

(1) Enter upon, use, or damage the surface of the lands or interfere with the use of the surface by any grantee or by the grantee's successors or assignees.

(2) Conduct any mining activities of any nature whatsoever above a plane located 500 feet below the surface of the lands without the prior written permission of any grantee of the lands or the grantee's successors or assignees.

SEC. 9. The city may, pursuant to Section 3 of Article X of the California Constitution, sell the street to any private person, partnership, or corporation, with the approval of the State Lands Commission, if the city first finds that sale is consistent with the legislative findings and declarations set forth in Section 3. That sale shall not be effective unless and until the State Lands

the state to the city and dated January 24, 1969, and to record the modified description and plat in the office of the recorder of the city.

SEC. 13. An action may be brought under Chapter 4 (commencing with Section 760.010) of Title 10 of Part 2 of the Code of Civil Procedure by the parties to any agreement regarding a street sale or exchange of land entered into pursuant to this act or pursuant to Chapter 310 of the Statutes of 1987 to confirm the validity of the agreement. Notwithstanding Section 764.080 of the Code of Civil Procedure, the statement of decision in the action shall include a recitation of the underlying facts and a determination whether the agreement meets the requirements of this act, Chapter 310 of the Statutes of 1987, Sections 3 and 4 of Article X of the California Constitution, and any other law applicable to the validity of the agreement.

SEC. 14. The authorization contained in Section 5, and any lease, permit, development approval, or other entitlement for use, including any BCDC permit, for the cruise ship terminal development that is dependent upon that authorization is not affected by the failure of the Port to perform any obligation under the BCDC agreement referred to in subdivision (d) of Section 5, and that authorization and the lease, permit, development approval, or other entitlement for use shall remain in full force and effect. BCDC may enforce the agreement referred to in subdivision (d) of Section 5 by specific performance or by any other enforcement remedy in the McAteer–Petris Act, except for revocation of any BCDC permit issued for the cruise terminal development.

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PORT OF SAN FRANCISCO

MEMORANDUM

September 19, 2001

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Informational presentation on the proposed Preferred Alternative Project plan of development submitted by The Mills Corporation for the Piers 27-31 Recreation Project located on The Embarcadero between Greenwich and Bay Streets

DIRECTOR'S RECOMMENDATION: FOR INFORMATION ONLY; NO ACTION REQUIRED

This staff report provides information on the proposed Preferred Alternative Project plan of development submitted on September 12, 2001 for the Piers 27-31 Mixed Use Recreation Project ("Recreation Project") by The Mills Corporation ("Mills). The submittal of this alternate project is required under the terms of the current Exclusive Right to Negotiate agreement between the Port of San Francisco (the "Port") and Mills. An informational presentation describing the proposed Preferred Alternative Project will be made by Mills at the September 25, 2001 Port Commission meeting.

The Site for the Recreation Project consists of a 19-acre complex of piers on the Northeast Waterfront, including Piers 27, 29, 29 ½, and 31, which is shown on the attached map (Exhibit A). The tables presented herein provide a summary comparison of the proposed Preferred Alternative Project as received from Mills on September 12, 2001 and the original Mills development proposal previously described in staff reports to the Commission dated March 21, 2001 and April 16, 2001.

This Print Covers Calendar Item No. **8B**

BACKGROUND

The Port's primary goals for the Recreation Project are stated in the following Mission Statement for this development opportunity:

> **"The goal of this development is to create a unique and inviting waterfront mixed-use Recreation Project, integrating a varied mix of maritime and commercial uses and open space, including a major public plaza, oriented around active recreational pursuits. This mixed-use Recreation Project will provide a venue for all San Franciscans and Bay Area residents to actively participate, individually or as groups, in diverse amateur recreational sports, physical fitness and related activities while enjoying the Recreation Project's scenic waterfront setting. The major public open space, the Northeast Wharf Plaza, will be a city and regional resource. The plaza and the other open spaces included in the Recreation Project will create opportunities for engaging in and viewing active recreational activities while enjoying expansive Bay views. New opportunities for recreational boating and other water uses will be created, and maritime berthing compatible with the adjacent new uses at Pier 27 will continue, including temporary ceremonial ship berthing and 'port of call' cruise ship berthing.**
>
> **"The Recreation Project will have a quality design that is authentic to the rich historic maritime industrial character of the Northeast Waterfront. The Recreation Project will be designed to respect this character, to create a focal point for new activity on the Northeast Waterfront, and to maximize public access to and enjoyment of the Recreation Project's spectacular waterfront setting."**

The amended Request for Proposals ("RFP") for the Recreation Project was issued on August 31, 2000, with a deadline of December 5, 2000 for submitting proposals. By that deadline, proposals were received from two developers, Chelsea Piers, L.P. and The Mills Corporation. Port staff, assisted by an independent consultant team headed by Bay Area Economics, reviewed and evaluated the two proposals in the context of the Selection Criteria stated in the RFP.

On April 18, 2001, the Port Commission by Resolution No. 01-30 authorized the Port's Executive Director to enter into exclusive negotiations with Mills subject to the proposed conditions identified as appropriate for both respondents, and specifically for Mills as set forth in the April 16, 2001 staff report to the Port Commission. A list of the Port Conditions is attached hereto as Exhibit B.

Effective June 13, 2001 the Port and Mills entered into an Exclusive Right to Negotiate agreement for an initial term of six months, with two six-month options to extend negotiations subject to completion by Mills of various Performance Benchmarks described in the agreement. Because the Port Conditions require significant changes to the developer's original proposal, the agreement provides for a process by which the Port and Mills will establish the basic elements of the Recreation Project for which regulatory approvals will be sought in order to facilitate meaningful environmental review. In accordance with this process and the specific Performance Benchmarks included in the agreement, Mills is required to submit within 90 days after the Commencement Date of the agreement, a proposed Preferred Alternative Project based on the developer's original proposal modified by the Port Conditions. That submittal was delivered to the Port's offices on September 12, 2001.

The Exclusive Right also requires Mills to present the proposed Preferred Alternative Project for

feedback from various groups including the Port Commission, the Port's Waterfront Design Advisory Committee (WDAC), the Port's Northeast Waterfront Advisory Group and BCDC staff. These presentations are to be concluded by October 11, 2001, after which the Port and Mills shall meet, negotiate and seek to complete a Development Memorandum during the remaining 60 days of the initial term of the Exclusive Right agreement. The Development Memorandum will establish the basic elements of the Recreation Project for which regulatory approvals will be sought and the basic terms and conditions of the proposed Lease for future consideration by the Port Commission and San Francisco Board of Supervisors. Failure to agree upon the terms of the Development Memorandum will result in the termination of the Exclusive Right agreement at the end of the original term.

SUMMARY OF PREFERRED ALTERNATIVE PROJECT

The Area Summaries, Listing of Recreational Activities and Rental Proposals shown below are based upon the information provided by Mills in its September 12, 2001 submittal of its proposed Preferred Alternative Project and the original project summaries presented in the March 21, 2001 and April 16, 2001 staff reports to the Port Commission. Current site plans of the proposed Preferred Alternative Project are attached as Exhibit C.

AREA SUMMARY *(as summarized by developer*	**December 5, 2000 Mills ORIGINAL Proposal**	**September 12, 2001 Mills ALTERNATE Proposal**
Indoor Recreational Enterprises (all levels)	156,755 s.f.	203,200 s.f.
Outdoor Recreational Enterprises (includes Skate Park, Aquatic Marine Training and Courts)	72,281 s.f.	88,000 s.f.
Total Recreational Enterprises	229,036 s.f.	291,200 s.f.
Assembly and Entertainment	18,056 s.f.	-0- s.f.
Sports, Maritime & Outdoor Oriented Retail	110,600 s.f.	106,475 s.f.
Restaurants/Cafés	55,308 s.f.	33,590 s.f.
Office Space	271,963 s.f.	219,180 s.f.
Open Space (not including NE Wharf Plaza or Outdoor Recreational Enterprises)	*261,760 s.f. (40% of total area of 659,960 s.f.)	268,155 s.f. (37% of total area of 725,560 s.f.)
Northeast Wharf Plaza	*4 acres (174,240± s.f.)	2 acres (88,034 s.f.)
Open Space (including NE Wharf Plaza but excluding Outdoor Recreational Enterprises)	356,189 s.f. (52% of total area of 834,200s.f.)	356,189 s.f. (44% of total area of 813,594 s.f.)
Parking	*170 on-site parking spaces	197 on-site parking spaces

* Compiled based upon staff analysis in March 21, 2001 and April 16, 2001 Port staff reports.

The following list of recreational activities is included in the September 12, 2001 Alternate Project proposed by Mills.

	ACTIVITY	LOCATION	INDOOR/ OUTDOOR	NO PAY	PAY (Daily or Regular)
1	Skate Park/BMX	YMCA/Sports Valley	Indoor/Outdoor		X
2	Basketball/Volleyball Courts	Sport Valley	Outdoor	X	
3	Par Course	Piers 27-31	Outdoor	X	
4	Rollerblading	Piers 27-31	Outdoor	X	
5	Bocce Ball	Northeast Wharf Plaza	Outdoor	X	
6	Shuffle Board	Northeast Wharf Plaza	Outdoor	X	
7	Playground/Picnic Area	Northeast Wharf Plaza	Outdoor	X	
8	Climbing Gym	YMCA	Indoor		X
9	High Adventure Center	YMCA	Indoor		X
10	Basketball	YMCA	Indoor		X
11	Volleyball	YMCA	Indoor		X
12	Aquatic Center (Lap pool, Rec pool, Scuba Class, Water polo)	YMCA	Indoor		X
13	Teen Center (Social, Fitness, Dance)	YMCA	Indoor		X
14	Kayaking	Marine Valley	Outdoor	X	X
15	Paddling	Marine Valley	Outdoor	X	X
16	Sailing (Small keel boats)	Marine Valley	Outdoor	X	X
17	Wind Surfing	Marine Valley	Outdoor	X	X
18	Kite Surfing	Marine Valley	Outdoor	X	X
19	Kid's Gym	YMCA	Indoor		X
20	Indoor Soccer (Gym)	YMCA	Indoor		X
21	Badminton (Gym)	YMCA	Indoor		X
22	Sports Training Center (Golf, Tennis and others)	Pier 29-1/2	Indoor		X
23	Family Recreation (Baseball, Soccer, Football & others)	Pier 29-1/2	Indoor		X
24	Gymnastics/Ventures	YMCA	Indoor		X
25	Dance (Young Adults)	YMCA	Indoor		X
26	Child-watch	YMCA	Indoor		X
27	Family-oriented Recreation	Pier 29	Indoor		X
28	Locally Programmed Historic Exhibits	Pier 29	Indoor	X	
29	Recreation Sports Instruction	Pier 29	Indoor	X	X

RENTAL PROPOSAL *(RFP Financial Objectives and Terms & Conditions)*	**December 5, 2000 Mills ORIGINAL Proposal**	**September 12, 2001 Mills ALTERNATE Proposal**
Lease Term *(Not to exceed 66 years; for granting a longer lease term of 40 to 66 years Port would expect to receive increased participation in future growth of revenues on the Site.)*	66 Years.	66 Years.
Rent During Construction *(Fixed monthly rental payments during project construction)*	$720,000 during construction (estimated construction period is 18 months).	$720,000 during construction (estimated construction period is 21-23 months).
Guaranteed Base Rent *(Fair market monthly base rent, taking into consideration public benefits of Project; Port expectation of minimum $1.4 million per year; higher Base Rent encouraged. Port will make available rent credits of up to 50% of base rent for first three years as its contribution toward constructing initial phase of NE Wharf Plaza.)*	Year of Operations: Years 1-10: $1,400,000 (before Rent Credits from Port) Note: Year 1 begins in 2004 Subsequent years as adjusted by Base Rent CPI Adjustments to be negotiated (see below).	Calendar Year of Operations: Year 1 (3 mos.): $ 350,000 *Years 2-4: $ 700,000 Years 5-10: $1,400,000 (Rent for Years 5-10 is before deduct for remaining unamortized NE Wharf Plaza costs) *Years 2-4 reflect $700,000 per year amortization for NE Wharf Plaza. Note: Year 1 covers last three months of 2004 only. Subsequent years as adjusted by CPI Adjustments (see below).
Base Rent Adjustments *(Periodic cost of living or other adjustments to monthly Base Rent; such adjustments should not be less than annual cost of living increases.)*	No adjustments during first ten years of operation. Increases after 10th year to be negotiated during the exclusive negotiation period.	No adjustments during first ten full years of operation. CPI increases every five years beginning in 11th full year of operations, and every 5 years thereafter (minimum 10%, maximum 20% CPI increase during each 5-year period).
Percentage Rent *(Percentage Rent calculated and paid monthly on gross receipts, offset by amount of Base Rent paid, and structured to allow Port to participate in future growth of gross receipts.)*	No Percentage Rent during first ten years of operation. Percentage Rent after first ten years of operation to be negotiated during exclusive negotiation period.	10% of net operating income in excess of $4 Million for each fiscal year of lease beginning with second full year of operation and subject to developer's receiving a minimum 14% return on total net project costs. Net operating income (as defined by developer) is based upon gross receipts from project after deducting all costs and expenses

RENTAL PROPOSAL *(RFP Financial Objectives and Terms & Conditions)*	December 5, 2000 Mills ORIGINAL Proposal	September 12, 2001 Mills ALTERNATE Proposal
		for the project, including, without limitation, debt service, preferential payments to equity, lender fees, replacement reserves, and other customary deductions.
Percentage Rent Adjustments *(Included in Selection Criteria)*	No adjustment to Port's participation in percentage rents during first 10 years of operation. Increases after 10th year to be negotiated.	No adjustment to Port's participation in percentage rents during Lease term.
Other Rent Adjustments	Developer is willing to negotiate a combination of increased Base Rent and/or percentage rent participation beginning the 10th year of operation and thereafter. The increase in Base Rent and/or percentage rent participation will be subject to the developer achieving a minimum cumulative 14% return on total net project costs. Possible Port participation at 20% (or higher) after cumulative yield thresholds are met. The participation would apply to gross receipts of the developer.	None.
Rent Credits from Port *(Port will make available rent credits of up to 50% of base rent for first three years as its contribution toward constructing initial phase of NE Wharf Plaza.)*	Maximum costs of open space improvements to the expanded 4-acre NE Wharf Plaza of $5,000,000 amortized over the first 7+ years of operations. The $5 Million rent credit allowance for the NE Wharf Plaza is budgeted to include: demolition of existing above pier elements; demolition of existing pier structures; demolition of piers for steps to Bay; create new steps to raised plaza; and create new steps at water's edge. Allowance appears to exclude budget for open space and public access improvements. If the cost of the desired plaza design exceeds $5 Million, the	Maximum costs of open space improvements to the 2.3-acre NE Wharf Plaza of $3,400,000 to be amortized against Base Rent over the first 3 years of operations. The balance to be determined during lease negotiations. The project budget includes a $3.4 million allowance to improve the NE Wharf Plaza Note: Proposal appears to indicate that Plaza improvement costs in excess of those reflected above in reduced Base Rent for Years 2-4 are to be amortized during subsequent lease years as determined through additional negotiations. Any such additional

RENTAL PROPOSAL *(RFP Financial Objectives and Terms & Conditions)*	**December 5, 2000 Mills ORIGINAL Proposal**	**September 12, 2001 Mills ALTERNATE Proposal**
	developer anticipates that the City of San Francisco and Port would assist in locating funds through existing programs and direct grants. Developer opposed to a two-phase process; expects the NE Wharf Plaza to be completed concurrent with its development project. Note: Rent credits reduce the amount of Base Rent to the Port during the indicated years (from that shown above in the first row).	amortized costs could reduce the amount of Base Rent to the Port (from that shown above in the Guaranteed Base Rent).
Port's Participation in Sale or Refinancing Proceeds *(Pay Port a share of net proceeds developer receives from sale, refinance, or transfer of leasehold.)*	Port participation in the event a transfer or sale occurs to be negotiated. No Port participation in any refinancing during the first ten years of operation. Any Port participation in refinancing after the 10th year to be negotiated.	No sale or transfer anticipated during first ten years of full operation. Port to receive 20% of any sale or refinance of net proceeds, subject to customary lender subordination and minimum 25% cumulative return on equity to Mills and its partners. Net proceeds defined by developer as any proceeds less all costs associated with the transaction, all loans due paid in full, all pro-rata operating costs and rents paid in full, any and all preference payments due to partners, less any dollars escrowed for capital reserves and any other customary expenses.
Port Participation in Historic Tax Credit Proceeds *(Included in Selection Criteria)*	To be negotiated.	Port to receive 20% of the net proceeds from Historic Tax Credits.
Other Proposed Financial Terms *(Included in Selection Criteria)*	All other terms to be negotiated.	All other terms to be negotiated.

RENTAL PROPOSAL *(RFP Financial Objectives and Terms & Conditions)*	**December 5, 2000 Mills ORIGINAL Proposal**	**September 12, 2001 Mills ALTERNATE Proposal**
Development Costs *(Developer to assume all financial risks of development, construction, maintenance/repairs and operation of Project.)*	Hard Costs: $98,677.000 Soft Costs: 61,948,000 Total Costs: $160,625,000 Note: Excludes costs of San Francisco YMCA facilities.	Hard Costs: $95,282,000 Soft Costs: 61,112,000 Total Costs: $156,394,000 Note: $3.4 million costs for NE Wharf Plaza included in Hard Costs; excludes costs of San Francisco YMCA facilities.
Projected Construction Start	August 2002	October 2002 – January 2003
Projected Construction Completion	February 2004	September 2004

Next Steps

As previously indicated, in addition to the Port Commission, the Exclusive Right agreement requires Mills to present the proposed Preferred Alternative Project for feedback to the Port's Waterfront Design Advisory Committee (WDAC), the Port's Northeast Waterfront Advisory Group (NEWAG) and BCDC staff. The WDAC presentation is scheduled for September 25, 2001 at noon and the NEWAG presentation is scheduled for October 3, 2001 at 4:00 p.m. Both presentations will take place at Pier 1's Bayside Conference Room and are open to the public.

Comments received during these various presentations will be given due consideration during the subsequent process by which the Port and Mills shall meet, negotiate and seek to complete a Development Memorandum prior to December 12, 2001, the expiration date of the original six-month term of the Exclusive Right agreement. The Development Memorandum will establish the basic elements of the Recreation Project for which regulatory approvals will be sought and the basic terms and conditions of the proposed Lease for future consideration by the Port Commission and San Francisco Board of Supervisors. Failure to agree upon the terms of the Development Memorandum will result in the termination of the Exclusive Right agreement at the end of the original term.

Prepared by: Curt Watts
Development Project Coordinator

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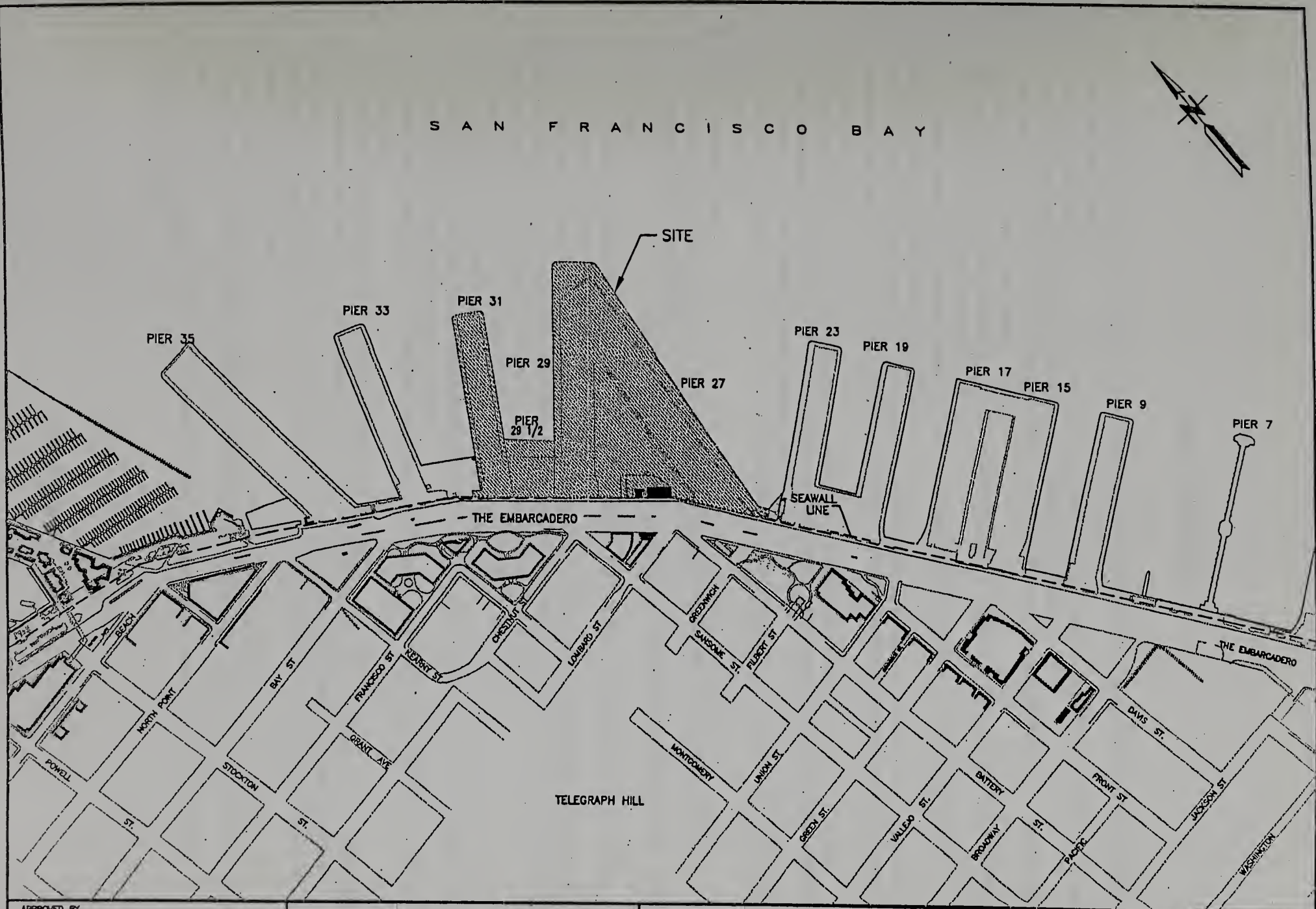
EXHIBIT A



APPROVED BY
SAN FRANCISCO PORT COMMISSION
DATE _____
CHIEF HARBOR ENGINEER

SAN FRANCISCO PORT COMMISSION
PORT OF SAN FRANCISCO
DEPARTMENT OF ENGINEERING

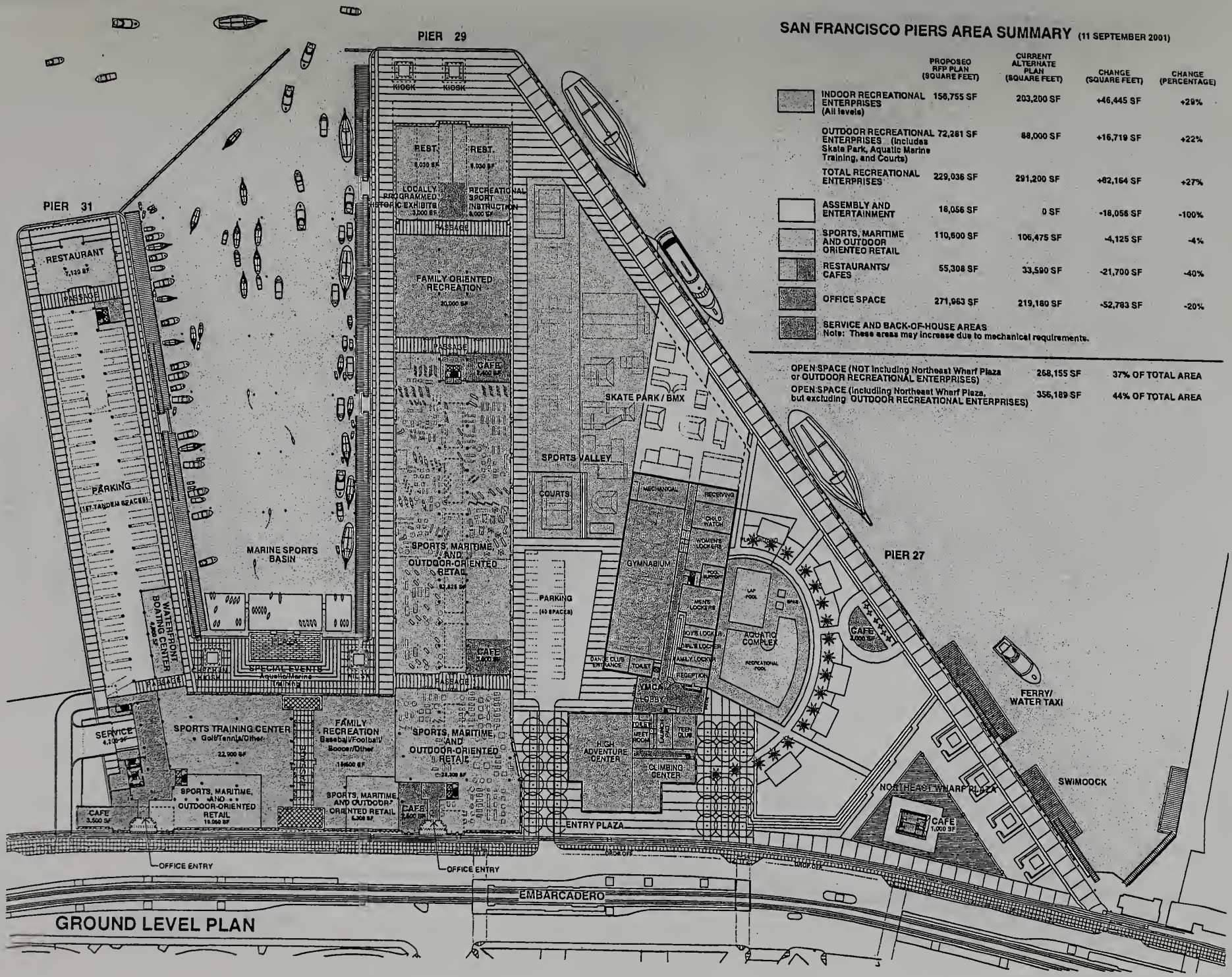
NORTHEAST WATERFRONT

DRAWN BY: EDC	DATE: OCT 1, 1999
CHECKED BY	SCALE: NONE
DRAWING NO.	SHEET NO. OF SHEETS

PORT CONDITIONS

1. The lease should include very specific use requirements for creating and retaining the RFP Required Uses throughout the lease term.
2. The lease should include very specific restrictions on the use of the retail space, restricting retail uses to active recreation-related uses and a very limited amount of other retail space.
3. There should be commitments from the developer to recreational programs and activities that are free to the public in both the indoor and outdoor spaces.
4. The maritime and recreational boating elements need to be further defined, clarified, and such uses should be developed to the maximum feasible extent.
5. Comprehensive detailed planning, including design and programming, of the Northeast Wharf Plaza is required to make this area usable to the public.
6. The developer should be responsible for all development costs of the project, including all utilities, public restrooms and open space, excluding only the rent credits as provided in the RFP (50% of the Base Rent for the first three years).
7. The developer should take the appropriate steps necessary to seek 20% Investment Tax Credits for the Rehabilitation and Restoration of Historic Structures to insure the preservation of the site's eligible structures in accordance with the Secretary of the Interior's Standards.
8. Negotiations required regarding terms of Port participation in sale and financing proceeds, and participation in historic tax credits.
9. Transportation issues:
   a. Through the environmental review process, specific transportation impacts and required mitigation measures need to be identified.
   b. Parking should be for short-term use only (not employee parking) with priority for users of the recreation facilities.
   c. The developer needs to work with the Port, MUNI and the Embarcadero Task Force to expand public transportation to the Site.
   d. The developer must develop and implement an effective Transportation Demand Management Program.
10. The development program should be changed to better address Required Uses, limit Permitted Uses so that they are ancillary, and eliminate uses not permitted. These changes should include:
    a. Significantly reduce the amount of office, retail, and eating and drinking space.
    b. Expand the interior space devoted to Recreational Enterprises.
    c. Add other or restructure Recreational Enterprises, so that all the active recreation uses are not operated by a membership club (San Francisco YMCA).
    d. Do not add or expand other Permitted Commercial Uses, such as Assembly & Entertainment or Visitor Services.
    e. Eliminate the Artisans'Gallery, which is not a permitted use.
11. The location of uses needs to be reorganized so that the entire open space network is activated. Commercial uses and open space need to be better integrated. Site planning changes are needed to address wind and shadow affects resulting from removal of the Pier 27 shed and construction of new building, as well as to address design guidelines.
12. Specific fund-raising milestones are required for San Francisco YMCA. Satisfactory guarantees of completion, including the YMCA building, are required from an entity other than one whose only asset is the lease for the Site.
13. The Base Rent, percentage rent and other rental must be at fair market and must comply with the terms indicated in the RFP.

EXHIBIT C-1



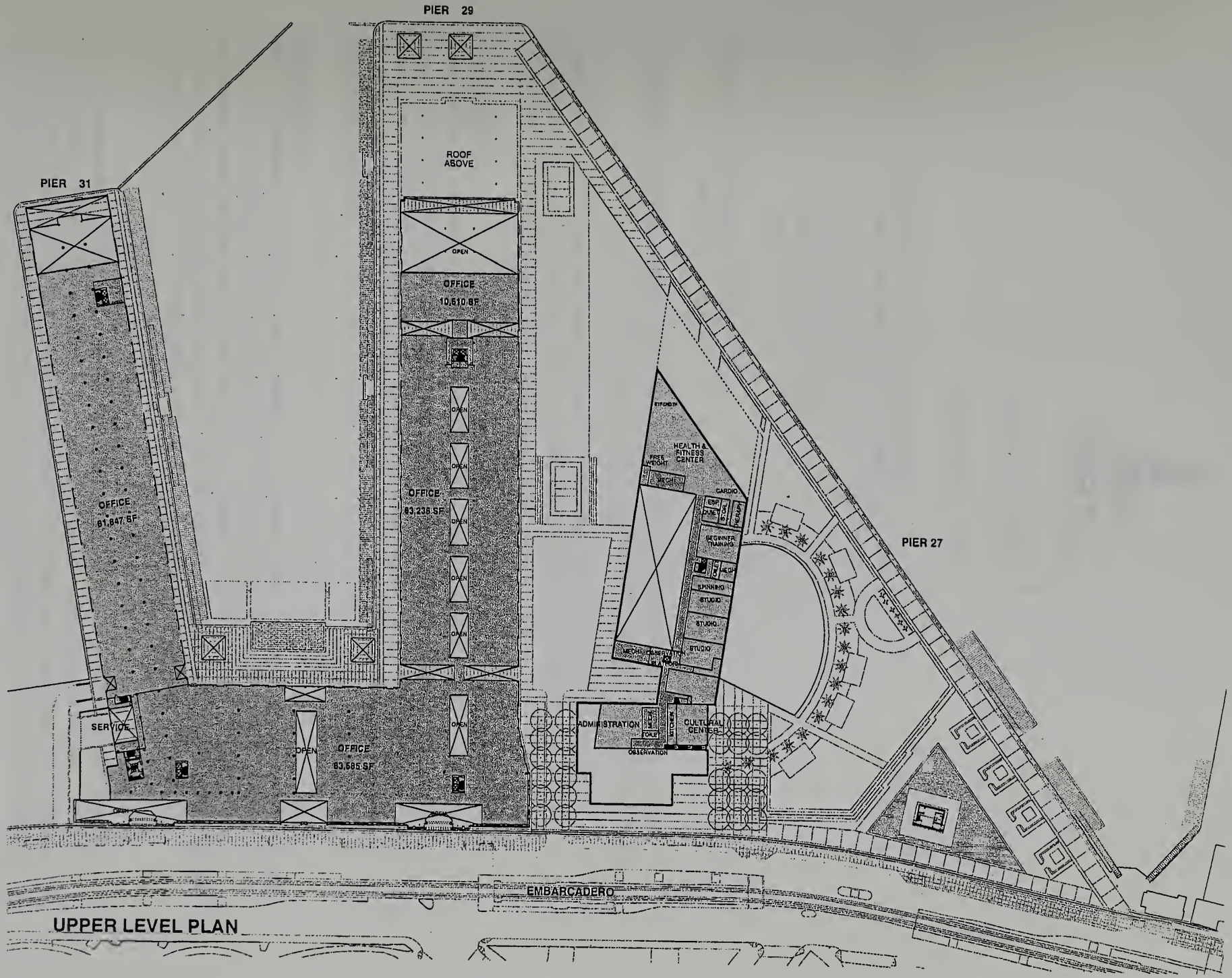
GROUND LEVEL PLAN

SAN FRANCISCO PIERS AREA SUMMARY (11 SEPTEMBER 2001)

	PROPOSED RFP PLAN (SQUARE FEET)	CURRENT ALTERNATE PLAN (SQUARE FEET)	CHANGE (SQUARE FEET)	CHANGE (PERCENTAGE)
INDOOR RECREATIONAL ENTERPRISES (All levels)	156,755 SF	203,200 SF	+46,445 SF	+29%
OUTDOOR RECREATIONAL ENTERPRISES (Includes Skate Park, Aquatic Marine Training, and Courts)	72,281 SF	88,000 SF	+16,719 SF	+22%
TOTAL RECREATIONAL ENTERPRISES	229,036 SF	291,200 SF	+62,164 SF	+27%
ASSEMBLY AND ENTERTAINMENT	18,056 SF	0 SF	-18,056 SF	-100%
SPORTS, MARITIME AND OUTDOOR ORIENTED RETAIL	110,600 SF	106,475 SF	-4,125 SF	-4%
RESTAURANTS/ CAFES	55,308 SF	33,590 SF	-21,700 SF	-40%
OFFICE SPACE	271,963 SF	219,180 SF	-52,783 SF	-20%
SERVICE AND BACK-OF-HOUSE AREAS Note: These areas may increase due to mechanical requirements.				

OPEN SPACE (NOT including Northeast Wharf Plaza or OUTDOOR RECREATIONAL ENTERPRISES)	268,155 SF	37% OF TOTAL AREA
OPEN SPACE (including Northeast Wharf Plaza, but excluding OUTDOOR RECREATIONAL ENTERPRISES)	356,189 SF	44% OF TOTAL AREA

EXHIBIT C-2



UPPER LEVEL PLAN

PORT OF SAN FRANCISCO

MEMORANDUM

September 19, 2001

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Brian McWilliams, Vice President
Hon. Denise McCarthy
Hon. Michael Hardeman
Hon. Pius Lee

FROM: Douglas F. Wong
Executive Director

SUBJECT: Request for authorization to execute the Memorandum of Modifications No. 3 (Mission Bay South Infrastructure Plan) Regarding Illinois Street Bridge Option

DIRECTOR'S RECOMMENDATION: AUTHORIZE THE EXECUTION OF THE MEMORANDUM OF MODIFICATIONS NO. 3 (MISSION BAY SOUTH INFRASTRUCTURE PLAN).

Introduction
Port staff requests that the Commission approve a non material amendment to the existing Mission Bay South Infrastructure Plan. The non-material amendment would establish the framework to allow for the construction of the Illinois Street Bridge by Catellus Development Corporation ("Catellus") and for the contribution of additional funds by Catellus towards the Illinois Street Bridge.

Background
At its September 22, 1998, the Port Commission approved twelve separate resolutions regarding the Mission Bay project (Port Commission Resolution Nos. 98-86 through 98-97). These resolutions amended the various land transfer agreements between the City, Port and Catellus Development Corporation, as well as approving other actions necessary to effectuate the Mission Bay Redevelopment Plans for the Mission Bay North Redevelopment Area and Mission Bay South Redevelopment Area.

Port Commission Resolution No. 98-95 (South Interagency Cooperation Agreement) approved an Interagency Cooperation Agreement for the South Plan Area (the "ICA") between the City, including the Port, and the Redevelopment Agency, to facilitate implementation of the South Redevelopment Plan. The ICA set forth a framework for cooperation between the City and the

This Print Covers Calendar Item No. 9A

Redevelopment Agency in administering the process for control and approval of subdivisions and all other applicable land use, development, construction, improvement, infrastructure, occupancy and use requirements. The ICA also established and fixed the City regulations, policies and procedures governing such approvals within the project area, including the infrastructure requirements relating to the build-out of the project

The Infrastructure Plan, together with the regulations adopted under the Mission Bay Subdivision Ordinance, establishes the design and construction standards, performance criteria and specifications governing Catellus' responsibility for public infrastructure within the South Plan Area. Of particular interest to the Port, the Infrastructure Plan keeps open the Port's ability to construct (at no cost to Catellus) future rail access to Pier 48 and 50. In addition, the Infrastructure Plan provides for continued freight access to Pier 80, and states that alternative future rail access to Pier 80 may be provided from the south via a new Illinois Street Bridge over Islais Creek between Pier 80 and 90 (subject to compliance with CEQA or other federal or state environmental laws).

Under the Infrastructure Plan, Catellus has an obligation to pay up to ½ of the cost of construction of the new Illinois Street Bridge, not to exceed $2.5 Million, conditioned upon (1) the City securing a funding commitment for the balance of the cost within 5 years, (2) the Port's agreement to abandon all rail lines within the South Plan Area upon completion of such work, and (3) the City's use of good faith efforts to identify and obtain sources other than Catellus or to timely reimburse Catellus for its share of the cost of the Illinois Street Bridge. In the absence of the Illinois Street Bridge, rail facilities within the South Plan Area that are used to provide service to the Port's primary marine terminal located at Pier 80 are contemplated to be relocated by Catellus to within the 16th Street right of way (the "16th Street Option").

Catellus also has agreements (collectively, the "Shippers Agreement") with Union Pacific Railroad Company ("UPRR") under which Catellus has the obligation to construct replacement rail facilities in return for UPRR's release of certain easements within the South Plan Area. Catellus has a number of options for meeting its replacement obligations under the Shipper's Agreement, including construction of the 16th Street right-of-way or the Illinois Street Bridge. Port staff believes that construction of the Illinois Street Bridge will greatly enhance the Port's ability to serve existing customers at the Port's primary marine terminal located at Pier 80 and will ensure the long-term viability of that facility. However, estimates for providing a fully movable mechanized bridge that would meet the needs of the Port and the surrounding waterway community are beyond the budget available for the project. A lift segment bridge, which would require mobilization of a crane to open and close, was the most affordable option. Catellus has also determined that construction of the Illinois Street Bridge is in the best interest of the Mission Bay Project and would best fulfill its obligations under the Shipper's Agreement. Catellus has also agreed that, subject to the terms and conditions of the proposed non material amendment, it would contract for the design and construction of the Illinois Street Bridge in lieu of proceeding with the 16th Street Option and would also contribute an additional $1.8 million to that effort (the estimated savings from avoiding the 16th Street Option).

Terms of Non-Material Amendment

Under Section 15.2 of the ICA, amendments to the Infrastructure Plan that do no materially alter the obligations o any City agencies or the benefits accruing to them, do not materially increase the costs or liabilities of the City, and do not materially decrease the time periods required for review or approval by any City Agency of permits, approvals, agreements and entitlements in connection with the implementation of the Mission Bay South Redevelopment Plan and Plan Documents, may be approved by the Director of Public Works and the Mayor as a non-material amendment of the Infrastructure Plan after consultation with affected City agencies.

The terms and conditions of the non-material amendment (Memorandum of Modifications No. 3 (Mission Bay South Infrastructure Plan)) do not commit the Port or Catellus with moving forward with the Illinois Street Bridge, but merely create a new option for Catellus' satisfaction of its obligations to maintain rail service to the Port's marine terminal at Pier 80. In the event the Port elects to move forward with the Illinois Street Bridge option, approval of such election and the terms of a more detailed agreement between the Port and Catellus will be brought before the Port Commission for its approval.

The significant terms and conditions of the non-material amendment are as follows:

Catellus' Contribution. The existing Infrastructure Agreement requires Catellus to contribute $2.5 Million towards construction of the Illinois Street Bridge if within 5 years after the effective date of the Mission Bay documents, the Port has secured funding for the balance of the cost of construction and has all approvals, contracts and permits necessary to commence construction, and has agreed to abandon all rail lines within the South Plan Area upon completion of the Illinois Street Bridge. The non-material amendment provides that Catellus will contribute up to an additional $1.8 Million (less certain monies already spent on the 16th Street Option) if, on or before June 1, 2002, the Port agrees to suspend rail service within the South Plan Area to be effective no earlier than July 1, 2002.

Access to Piers 48 & 50. The Port has reserved an easement for rail access to Piers 48 and 50 within the existing Terry Francois Boulevard. The non-material amendment preserves that right for rail access, but adjusts the alignment within Terry Francois Boulevard as relocated pursuant to the Mission Bay South Area Plan.

Construction of Illinois Street Bridge by Catellus. The non-material amendment allows the Port, in its sole discretion, to require Catellus to construct the Illinois Street Bridge in lieu of the 16th Street Option, subject to the terms of the non-material amendment, by giving a "Port Notice" to Catellus no later than December 31, 2001. The effectiveness of the Port Notice is conditioned upon the consent by UPRR under the Shipper's Agreement and the execution by Port and Catellus of a Rail Facilities Agreement, approved by the Port Commission and, if required, the Board of Supervisors, that accomplishes the following:

Fixes the maximum cost to Catellus at Four Million Three Hundred Thousand Dollars ($4,300,000) (i.e. the $2.5 Million contribution plus an additional $1.8 Million reflecting the costs which would otherwise be incurred by Owner in implementing the 16th Street Option);

Commits the Port to contribute all other costs and expenses of design and construction of the Illinois Street Bridge, including all "hard" and "soft" costs incurred by Catellus from and after September 1, 2001, and a development management fee of 4% of construction hard costs; Sets forth procedures for payment, administration and termination of the Bridge Contract, Provides adequate protections to Catellus against liability for cost overruns, delays in completion of the Illinois Street Bridge, for defects in the design or construction of the Illinois Street Bridge, and for hazardous materials liability; and Establishes the form, content, terms and conditions of a fixed price or guaranteed maximum price bridge contract with a contractor acceptable to the parties for the complete design and construction of the Illinois Street Bridge on terms which provide comprehensive protections to both Catellus and Port (each in their sole discretion).

Suspension of Rail Service. Catellus' timetable for construction of the 16th Street Option is based on Catellus' need to remove the existing rail facilities from portions of the South Plan Area scheduled for development. Therefore, in order to avoid the 16th Street Option, the Port Notice, if given, constitutes the Port's irrevocable commitment to suspend rail service to Pier 80 for a period of time commencing no earlier than July 1, 2002 until completion of the Illinois Street Bridge.

Due Diligence. Upon execution of the non-material amendment, Catellus has agreed to commence the due diligence and design work necessary to prepare a scope of work and to prepare the bridge contract. If the Port elects to give the Port Notice, such costs will be credited towards Catellus' $4.3 Million contribution. If the Port does not give the Port Notice, such costs will be credited towards the original $2.5 Million contribution if the Port constructs the Illinois Street Bridge within the 5-year period from the effective date of the Mission Bay agreements.

Bridge Contract. If the Port elects to give the Port Notice, then Catellus will enter into a bridge contract with an approved bridge contractor within 30 days.

CPUC Approval. If Catellus proceeds with the 16th Street Option, it must obtain approval by the California Public Utilities Commission. The Port agrees to cooperate with Catellus in such effort. Costs incurred by Catellus in pursuing the CPUC approval are not credited towards Catellus' $4.3 Million contribution if the Illinois Street Bridge is constructed.

Regulatory Approvals. The Port is responsible for obtaining all regulatory approvals necessary to construct the Illinois Street Bridge.

Port Notice. If the Port fails to give the Port Notice, then Catellus' obligation to construct the 16th Street Option remains in effect, and there is no suspension of rail service to Pier 80.

Termination of Illinois Street Bridge Option. If the Port gives the Port Notice, but construction of the Illinois Street Bridge thereafter will not be timely constructed due to inability to obtain regulatory approvals, cost overruns or other unforeseen circumstances, the parties may terminate the bridge contract, Catellus will thereafter complete the 16th Street Option within 1 year after obtaining CPUC approval, and the Port will reimburse Catellus for expenses incurred in pursuing the Illinois Street Bridge through the date of termination of the Illinois Street Bridge option.

Community Outreach

While Port staff has highlighted the need to compress the schedule to minimize the impacts of a suspension of rail service to Pier 80, the need to address local community concerns about the project has also been recognized. In addition to the public notification and meeting process required for the regulatory permits for the project, meetings with the local community are currently under way by Port staff to solicit input and concerns about the project and to evaluate those issues. The approval of the non-material amendment does not commit the Port to proceeding with the Illinois Street Bridge. The Port's election to proceed with the Illinois Street Bridge will be subject to a subsequent Port Commission action, at a noticed public meeting.

CEQA Review

Construction of the Illinois Street Bridge was analyzed in the Southern Waterfront Supplemental Environmental Impact Report that was recently certified. Because approval of the non-material amendment does not commit the Port Commission to proceed with the Illinois Street Bridge, no findings under CEQA are required at this time. In the event the Port Commission acts in the future to proceed with the Illinois Street Bridge, the appropriate CEQA findings will be included in the Port Commission resolution.

Summary

Port staff has determined that the significant benefits to Port operations presented by the construction of the Illinois Street Bridge, and the significant time and cost savings occurring as a result of Catellus carrying out the construction of the Illinois Street Bridge outweigh the minimal risks presented by the Port's agreement to allow for an interruption of rail service to Pier 80 for a period of time commencing no earlier than July 1, 2002 until completion of the Illinois Street Bridge.

Based on the time sensitive need to establish the framework for securing Catellus' agreement to contribute additional funds and to contract for the construction of the Illinois Street Bridge, Port staff recommends that the Commission authorize the non material amendment to the existing Mission Bay South Infrastructure Plan.

The Port's election of Catellus to deliver the Illinois Street Bridge under the terms set forth in the non material amendment will be brought back before the Commission for final approval.

Prepared by: Nita Mizushima, Chief Harbor Engineer

PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO

RESOLUTION NO. 01-76

WHEREAS, Pursuant to Port Commission Resolution No. 98-95 (South Interagency Cooperation Agreement) the Port Commission approved an Interagency Cooperation Agreement for the South Plan Area (the "ICA") between the City, including the Port, and the Redevelopment Agency, to facilitate implementation of the South Redevelopment Plan, which ICA set forth a framework for cooperation between the City and the Redevelopment Agency in administering the process for control and approval of subdivisions and all other applicable land use, development, construction, improvement, infrastructure, occupancy and use requirements; and

WHEREAS, The ICA also established and fixed the City regulations, policies and procedures governing such approvals within the Project Area, including the infrastructure requirements relating to the build-out of the project; and

WHEREAS, The Mission Bay South Infrastructure Plan, attached as an exhibit to the ICA together with the regulations adopted under the Mission Bay Subdivision Ordinance, establishes the design and construction standards, performance criteria and specifications governing Catellus' responsibility for public infrastructure within the South Plan Areas; and

WHEREAS, The Infrastructure Plan keeps open the Port's ability to construct (at no cost to Catellus) future rail access to Pier 48 and 50, and provides for continued freight access to Pier 80, stating that alternative future rail access to Pier 80 may be provided from the south via a new Illinois Street Bridge over Islais Creek between Pier 80 and 90 (subject to compliance with CEQA or other federal or state environmental laws); and

WHEREAS, Under the Infrastructure Plan, Catellus Development Corporation ("Catellus") has an obligation to pay up to ½ of the cost of construction of the new Illinois Street Bridge, not to exceed two and a half million dollars, conditioned upon certain commitments by the City and Port; and

WHEREAS, In the absence of the Illinois Street Bridge, rail facilities within the South Plan Area that are used to provide service to the Port's primary marine terminal located at Pier 80 are contemplated to be relocated by Catellus to within the 16th Street right of way (the "16th Street Option"); and

WHEREAS, Catellus also has agreements (collectively, the "Shippers Agreement") with Union Pacific Railroad Company ("UPRR") under which Catellus has the obligation to construct replacement rail facilities in return for UPRR's release of certain easements within the South Plan Area; and

WHEREAS, Catellus has a number of options for meeting its replacement obligations under the Shipper's Agreement, including construction of the 16th Street right-of-way or the Illinois Street Bridge; and

WHEREAS, The Port has determined that construction of the Illinois Street Bridge will greatly enhance the Port's ability to serve existing customers at the Port's primary marine terminal located at Pier 80 and will ensure the long-term viability of that facility; and

WHEREAS, Catellus has also determined that construction of the Illinois Street Bridge is in the best interest of the Mission Bay Project and would best fulfill its obligations under the Shipper's Agreement; and

WHEREAS, Catellus has also agreed that, subject to the terms and conditions of the non material amendment, it would contract for the design and construction of the Illinois Street Bridge in lieu of proceeding with the 16th Street Option and would also contribute an additional $1.8 million to that effort (the estimated savings from avoiding the 16th Street Option); and

WHEREAS, Catellus and Port have agreed that it would be in the interests of both parties to amend the Infrastructure Agreement to allow for Catellus to provide the Illinois Street Bridge in lieu of its obligation for the 16th Street Option, upon Port's election and subject to certain conditions; and

WHEREAS, Under Section 15.2 of the ICA, amendments to the Infrastructure Plan that do no materially alter the obligations o any City agencies or the benefits accruing to them, do not materially increase the costs or liabilities of the City, and do not materially decrease the time periods required for review or approval by any City Agency of permits, approvals, agreements and entitlements in connection with the implementation of the Mission Bay South Redevelopment Plan and Plan Documents, may be approved by the Director of Public Works and the Mayor as a non-material amendment of the Infrastructure Plan after consultation with affected City agencies; and

WHEREAS, Construction of the Illinois Street Bridge by Catellus, under the terms and conditions of this Non-Material Amendment, will materially benefit the Port by providing additional funds towards construction of the Illinois Street Bridge that otherwise would have been spent on the less desirable 16th Street Option, and will expedite the construction of the Illinois Street Bridge; and

WHEREAS, If the Port elects to pursue the Illinois Street Bridge option, the Port will have determined that the significant benefits to Port operations presented by the construction of the Illinois Street Bridge, and the significant time and cost savings occurring as a result of Catellus carrying out the construction of the Illinois Street Bridge outweigh the minimal risks presented by the Port's agreement to allow for

an interruption of rail service to Pier 80 for a period of time commencing no earlier than July 1, 2002 until completion of the Illinois Street Bridge; and

WHEREAS, This non-material amendment does not obligate the Port or City to satisfy the conditions under which Catellus would construct the Illinois Street Bridge, and any such election would require the approval of the Port Commission, in its sole discretion; and

WHEREAS, As a condition to the Port's election to pursue the Illinois Street Bridge option, Catellus and Port must also enter into a "Rail Facilities Agreement," which agreement shall be subject to subsequent approval by the Port Commission; and

WHEREAS, Consequently, and for the reasons set forth above, the nature of the non-material amendment on the terms described in the Memorandum to Port Commissioners dated September 19, 2001 for Item 9A benefit the Port and the City, do not materially increase the costs or liabilities of the City, and do not materially decrease the time periods required for review or approval by any City Agency of permits, approvals, agreements and entitlements in connection with the implementation of the Mission Bay South Redevelopment Plan and Plan Documents, and may therefore be approved by the Director of Public Works and the Mayor as a non-material amendment of the Infrastructure Plan; now, therefore, be it

RESOLVED, That the Port Commission hereby authorizes and directs the Port's Executive Director to enter into the Memorandum of Modifications No. 3 (Mission Bay South Infrastructure Plan), substantially on the terms described in the Memorandum to Port Commissioners dated September 19, 2001 for Item 9A on file with the Port Commission Secretary and in such final form as is approved by the City Attorney; and be, it further

RESOLVED, That the Port Commission urges the Director of Public Works, the Mayor and the Redevelopment Agency to enter into the Memorandum of Modifications No. 3 (Mission Bay South Infrastructure Plan).

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of September 25, 2001.

_____
Secretary

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SAN FRANCISCO
PORT COMMISSION

SEPTEMBER 25, 2001
MINUTES OF THE REGULAR MEETING

MEMBERS, PORT COMMISSION

HON. KIMBERLY BRANDON, PRESIDENT
HON. BRIAN McWILLIAMS, VICE PRESIDENT
HON. DENISE McCARTHY
HON. MICHAEL HARDEMAN
HON. PIUS LEE

DOUGLAS F. WONG, EXECUTIVE DIRECTOR

CITY & COUNTY OF SAN FRANCISCO
PORT COMMISSION

MINUTES OF THE REGULAR MEETING
SEPTEMBER 25, 2001

1. ROLL CALL

Commission President Kimberly Brandon called the meeting to order at 4:10 p.m. The following Commissioners were present: Kimberly Brandon, Denise McCarthy, Michael Hardeman and Pius Lee. Commissioner McWilliams was not present.

2. NEW BUSINESS/PUBLIC COMMENT

Francisco Da Costa, spoke about the Illinois Bridge drawbridge. He indicated that sufficient due process has not been given involving the constituencies in the area. They provided the Commission several proposals regarding the drawbridge and asked for consideration that the citizens of San Francisco could participate in the deliberation of the drawbridge decision.

Elizabeth Colton, International Museum of Women (IMOW), indicated that San Francisco has an opportunity to build a world-class museum in the waterfront, a museum that would honor women's history and not only look at historic issues but an agent for social change, and a worldwide leader in recognizing and honoring women globally. It is more important than ever to create a facility for people to come together and create a dialogue for people around the world from different communities and ethnic backgrounds to learn about the histories, talk about contemporary issues, create an understanding for people around the world and to ensure that women's voices are heard. They have been working for many years to put together a project and a proposal that is both serious and inspiring. It is a museum that would house both permanent and contemporary exhibits, active educational programs, auditorium for public presentations and performances. It will have a restaurant, shop and a resource center for teachers. This project was founded as a Women's Heritage Museum and as such has many ties to the San Francisco community. They have worked with the African American Historical Society, the Bay Area Network of Latinas, Holocaust Center and a lot of community groups. Most especially, they have worked with local teachers to look at their education system. They have a lot of support that has grown in the San Francisco community, nationally and internationally. They are proud that on August 13, 2001, the Board of Supervisors unanimously voted to support their locating potentially at Pier 26 and asked the Port to look very seriously at that issue.

They have chosen San Francisco because this is an international city for both our visitors as well as the people who live here. It is the City where the U.N. was founded. It is the first City to adopt the principles to sue all the convention and end all discrimination of all women and enforced that adoption. Because of its positioning on the edge of the Pacific Rim so that it could truly be a global community and a global institution that reach out around the world. They think that Pier 26 is a perfect place for this new visionary cultural and educational facility; perfect for them, for the City and for the Port.

They have been working with the architectural firm of EHDD who prepared the drawings. Pier 26 is right under the bay bridge. Pier 26 a historic building which they will honor its history, save it and restore it. The interior of the building is wide open. They would create an exciting museum within that existing space as well. The views from that pier are beautiful and would be accessed and opened up to the entire community. The benefits to the Port and to the City are many. They would provide a safe pier restored to full public views. They would restore the historic shed building. They would increase public access on the pier and create universal access to all the different communities of San Francisco. They will have facilities on the pier that would be open and welcoming to the public at all times. They would also enhance the revenue producing possibility of other sites by drawing crowds year round and fill in that spot along the waterfront which would increase neighborhood safety and activity in the neighborhood. They would provide a program of educational programs and after school programs including teen center and child care center. They have also started working with the community and youth groups to plan this programming so that they are responsive to community needs as well as to the educational needs working with the school system. They will track new visitors who will produce new revenue for the City in terms of sales and parking taxes. They have done a market study which projects about 500,000 people a year will visit this site and generate about $20 million into San Francisco's economy every year. They are also willing to be a demonstration project for energy conservation. They have looked at the possibility of generating their own solar energy. This is the kind of facility that is envisioned by the political and community leaders of San Francisco when they created the Waterfront Plan. It fulfills the goals of the Waterfront Plan to provide access and historic preservation and to be community serving as well as the goals of the public trust. A museum is an accepted use of Pier 26 and is the preferred use. It would fill out the whole range of development opportunities in the area. They uniquely touched many of the constituencies that the Port would want to reach out to not only under-served constituencies in the City, being women, constituencies of District 6 but also an international constituency because this will be the first facility of its kind in the world and would get national and international recognition. They are very ready to move forward with this project.

In partnership with the many respective firms in the community such as Simon, Martin-Vegue, Winkelstein, Moris (SMWM), they have done an initial structural evaluation. They have worked with Scott Lewis on a construction budget and timeline. They are working very closely with EHDD to look at the use of the inside of the building. They are pleased to be working with Kevin Hydes, President of Keen Engineering, who is going to look at sustainable design and energy conservation issues. They have been working with academics and scholars and museum designers around the world on the exhibition concept and are now studying the possibility of a Woman and the Sea exhibit which would tie them closely to their surroundings at the waterfront. They are also looking at the history of the pier itself. They are doing technology planning. They are happy that Dr. Nita Borg from the Institute of Women and Technology along with Anne Balsamo of Xerox Park and many others are working together on a team to help them plan the technology for this museum. They have done a five-year strategic plan and business plan. They are doing their capital campaign readiness with consultants. With very little staff, in the past two years they have raised $750,000 which includes $100,000 from the State whose effort was led by Assemblymember Kevin Shelley. They have built local constituencies which is not only their political and community leaders but the League of Women Voters, the California

Commission on the Status of Women, San Francisco Commission on the Status of Women, Democratic Women's Forum, Telegraph Hill Dwellers. All have formally supported them and they are starting to reach out to groups and to the local neighbors and to meet with them. They have also the support of leaders of many international groups such as UNIFEM, National Association of Negro Business and Professional Women's Club, Women's Edge, International Women's Democracy Center, Planned Parenthood, etc. Last year at the U.N. they co-sponsored a major art exhibit with UNIFEM which brought artists from over 50 countries around the world to look at the progress of the world's women. They are excited about Pier 26, it is the perfect place for them and it promotes all the goals of the Waterfront Plan and of the city both economically, culturally, educationally. They are very excited to work with the Commission and Port staff. She thanked Doug Wong for starting the process to make this vision turn into a reality for San Francisco.

Jim Chapell, President of SPUR, indicated that a couple of years ago, when the proponents of the Women's Museum approached them about possible sites, they suggested to approach the Port. This is the center of the city, the historic and future center of the city. It is the most important place for an institution that will be a world-class facility. This will be extremely successful and it's going to attract millions of people. For many years, it's been their objectives to get the public to the waterfront and this is the kind of facility that will do it. He recommended the IMOW to the Commission.

Gerry Crowley indicated that Telegraph Hill Dwellers support the concept of the IMOW. They are passionate about waterfront planning. They view the proposed museum as the highest form of 21st century cultural enhancement to the waterfront and to the City while at the same time honoring historic preservation. From a neighborhood perspective, they view the museum as an opportunity to showcase women who have contributed in the historical context to the North Beach and Telegraph Hill. Women such as Juana Briones who was an abused mother of 8 who farmed in the North Beach area. She tended to the ills of the sailors who were on the ship. Women such as Elizabeth Ash and Alice Griffith, a nurse and a social worker who founded the Telegraph Hill Neighborhood Center 111 years ago to take care of the social and health needs of the population of the immigrants – Italians, Irish and Mexican. Their legacies continue and they hope that there will be a place of recognition for them at the IMOW. The Telegraph Hill Dwellers also view the museum project as one which will generate considerable revenue and would be self-sustained. Telegraph Hill Dwellers Board of Directors joined the Board of Supervisors in unanimously approving the plan for IMOW. They anticipate following the project closely and hope that the Pier 26 site location process would move forward quickly.

Jane Morrison, San Francisco Tomorrow, indicated that this is a great place for an IMOW and supported the IMOW proposal.

Elmy Bermejo, State Chair of the Commission on the Status of Women, indicated that the Commission voted in support of the IMOW and that it would hopefully be located at Pier 26. The 7-member State Commission was formed in 1965 as a non-partisan agency that works in a culturally inclusive manner promoting quality and justice for all women and girls in California. Historical records in classroom textbooks still do not reflect the accurate picture of women's contributions, especially the contributions made by Latinas, African Americans, Asian Americans and Native American Women to the political, social and economic structure. The IMOW will provide a unique opportunity to celebrate and

record the achievements as well as the struggles of women worldwide. It will provide a learning experience for all who visit, one which could inspire them to action in their own local communities and help build the world of equal opportunity. The Commission on the Status of Women in the State of California is in full support of the IMOW.

Andrea Shorter, Board of Directors for the IMOW and Commission on the Status of Women, indicated that she represents the interest of young women and girls, particularly those that have been engaged in the concept about the museum and what it means to them. They are very dedicated and very involved in making sure that there is a strong educational and accessible educational component for everyone in San Francisco. They are especially excited about the opportunities that this particular project would provide to not only young women but young folks in San Francisco and what it means in terms of their leadership development, their opportunities for the future and looking at learning more not only about women's history but what women could do in the future. She is excited and hopeful about the Port's engagement in this particular project and opportunities that it would not only bring the City but to the Bay Area and certainly as an International Museum of Women to the globe. There are assortments of people that are involved in the process from not only in the academic and business communities but also from the educational community with particular dedication to looking at what this museum can mean to young women. They talked to folks from around San Francisco and from the low-income experiences of our community. You don't have to tell kids what it's going to mean to them because they know. They are leading the way in terms of a vision of what they need and what kind of experiences would enhance their development. It is an absolute delight to not only work with young people but talk to the parents about what this museum would mean to them. She looked forward to working with the Port about this development project.

Nick Mertz, OQO Inc., asked about the public process and how their input regarding the Illinois Street drawbridge would impact the Commission's decision. He was worried about the proximity of the bridge to their front doors. He asked about the schedule of the remaining decisions and permit requirements.

Legal Counsel Neil Sekhri pointed out that this item is on the calendar for discussion. When this item is called, the speakers can engage in public discussion with staff at that time.

Ernestine Weiss commended the parties who initiated the idea of an International Women's Museum. The time has come and it is long overdue. We need to recognize the wonderful things that women have always done and have kept on doing and have made this world a better place. The international women's forum will give young women an opportunity to become involved in politics and to further the beautification of this city and to help make it a better place.

3. EXECUTIVE SESSION

ACTION: Commissioner Lee moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor.

At 4:40 p.m., the Commission withdrew to executive session to discuss the following:

(1) CONFERENCE WITH LEGAL COUNSEL REGARDING EXISTING AND ANTICIPATED LITIGATION MATTERS (DISCUSSION ITEMS):

a. Discuss existing litigation matter pursuant to subdivisions (a) and (d) of the California Government Code Section 54956.9 and San Francisco Administrative Code Section 67.10(d) (1 case).

- As Defendant: CIC Associates, Inc. v. N. John Douglass; Information Network Radio, Inc.; San Francisco Port Commission, et al., S.F. Superior Court Case No. 317532. Action filed December 19, 2000.

b. Discuss significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9 (1 case).

- As Defendant: On January 13, 2001, the Port's drydock facility, known as Drydock #1, was sold by auction to a purchaser. Subsequent to the sale, the purchaser filed a claim, alleging that the Port failed to disclose certain material facts concerning the drydock, and claims damages in excess of $191,000. The Port has denied the claim, but has agreed to submit the matter to non-binding mediation. It appears that the claimant intends to pursue litigation if the dispute is not settled. **THIS ITEM WAS TAKEN OFF CALENDAR.**

(2) CONFERENCE WITH REAL PROPERTY NEGOTIATOR – This is specifically authorized under California Government Code Section 54956.8.
This session is closed to any non-City/Port representative. *

a. Property: 1 Ferry Plaza (Gabbiano's)
Person Negotiating: Port: Theresa Picon, Director of Real Estate
*World Trade Club: Conrad Breece

b. Property: Illinois Street at Islais Creek
Person Negotiating: Port: Nita Mizushima, Chief Harbor Engineer
*Catellus Development Corporation: Eric Harrison

c. Property: Pier 30/32 and SWL 330
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*San Francisco Cruise Terminal LLC: Glen Elkington

d. Property: Rincon Park Restaurant Site
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Rincon Park Restaurants, LLC: Reed Hearon

e. Property: Pier 70
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*AMB Property, L.P.: Luis Belmonte
*San Francisco Arts Future Consortium (SFAFC): Christopher Meany

f. Property: Pier 70, 1201 Illinois Street, between Humboldt and 23rd Streets
Person Negotiating: Port: Byron Rhett, Director of Planning & Development and

Mark Lozovoy, Asst. Deputy Director of Real Estate
*Potrero Power Plant (Mirant Americas Development, Inc.): Mark Harrer

g. Property: Pier 26
Person Negotiating: Port: Byron Rhett, Director of Planning & Development
*Women's International Museum: Elizabeth Colton

h. Property: Pier 96
Person Negotiating: Port: Theresa Picon, Director of Real Estate
*Coach USA: Ken Marciano

i. Property: Pier 80 and Pier 92
Person Negotiating: Port: Mark Lozovoy, Asst. Deputy Director, Real Estate
*RMC Pacific Material: Joe Sostaric

j. Property: Pier 38
Person Negotiating: Port: Mark Lozovoy, Asst. Deputy Director, Real Estate
*Pier 38 Maritime Recreation Center: Carl Ernst, Jr.

4. RECONVENE IN OPEN SESSION

At 5:20 p.m., the Commission returned from executive session and reconvened in open session.

ACTION: Commissioner Hardeman moved approval to not disclose any information discussed in executive session. Commissioner McCarthy seconded the motion. All of the Commissioners were in favor.

5. APPROVAL OF MINUTES - August 28, 2001 Regular Meeting

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor. The minutes of the August 28, 2001 regular meeting were adopted.

6. EXECUTIVE

A. Executive Director's Report. Mr. Wong reported the following:

- Emergency Planning and Security Debriefing
Port staff is working with the US Coast Guard, US Customs, the San Francisco Police Department, Fire Department and the Office of Emergency Services to make sure that the Port is safe and secure. While business has returned to normal, the Port is still on heightened security alert and certain procedures will be different. The Port Emergency Operations Plan Team has been working very hard with the Mayor's Office of Emergency Services to update and revise our plan. The plan was effectively activated on September 11 and the team, led by the Fire Marshal, Captain Ken Cereghino, and Safety Officer Ed Ochi, did a commendable job. Safety and security will be a priority in the strategic planning process. Karen Clopton is representing the Port in the Citywide Security Policy Task Force that

convenes weekly at the Emergency Services Center. A Portwide meeting is scheduled on September 27 at which time increased security awareness including requiring that photo identification badges be worn and that employees immediately report anything unusual to their supervisors will be addressed.

- San Francisco 2001 Bike Grand Prix
  The San Francisco Grand Prix 2001 was held on September 9th, which featured Tour de France winner, Lance Armstrong, and his U. S. Postal Service Team and an international field of over 120 of the world's best professional cyclists. The 125-mile road race started and finished on the Embarcadero at the end of Market Street, near the Ferry Building and winded through North Beach, along Fisherman's Wharf, and the Marina. An estimated 250,000 spectators viewed the race. The event was televised live on KGO/ABC –TV, with approximately 5 hours of live coverage. The SF Grand Prix is the largest event on the North America racing calendar.

7. REAL ESTATE

A. Request for approval of amendment to Port Lease No. L-8627, dated as of May 8, 1974, with Ferry Plaza Limited Partnership, and Consent to Sublease with World Trade Club of San Francisco (Resolution No. 01-73)

Terry Picon, Director of Real Estate, presented the item and requested Commission's approval.

George Lu, Gabbiano's Restaurant, indicated that they are delighted to enter into a long-term lease with the World Trade Club. With their organization, they could develop a better development. He asked the Commission to approve the lease with the World Trade Club.

James Stark, President of the World Trade Club, urged the Commission's approval of the lease. With the Commission's approval of the lease, it would reconnect the 40-year relationship between the Port and the World Trade Club, a non-profit trade association, for the promotion of international trade and travel. He also pointed out that it restores to the waterfront 70 union jobs with the combined seniority of 760 years. On behalf of the members of the World Trade Club and himself, he thanked the Port Commission and staff for all their help in this transaction.

Jennifer Clary, San Francisco Tomorrow, indicated that Gabbiano's is a public space, where the general public is allowed. The World Trade Club is a private club with 1600 members. She asked if there are any plans to open any part or retain any part of the Gabbiano's building for public access.

Ms. Picon replied that next spring, when the World Trade Club applies for their BCDC permit that public access issue might be brought up by BCDC and becomes a requirement. At this point, there is no requirement by BCDC.

Commissioner Brandon asked if there will be any open space around the building. Mr. Breece replied that the existing BCDC permit requires that there be access to the

exterior of the building. Only members of the World Trade Club, however, are permitted access to the interior of the building.

Tho Do, Secretary/Treasurer of Local 2, spoke on behalf of the union and President Mike Casey. Local 2 has a contract with the World Trade Club and their members are excited to be able to return to work. She urged the Commission to approve the lease.

Commissioner McCarthy commented that one of the Commission's concerns was that the World Trade Club remain at the Port because of its long-history with the Port. They were always hopeful that Gabbiano's would be the right setting for the club and was pleased to see the deal come through.

Commissioner Hardeman commented that he was elated about this transaction. It is extremely important for the Commission to have the World Trade Club stay on Port property. International trade and maritime are important to the Port. He congratulated Mr. Lu and the World Trade Club for reaching an agreement. Commissioners Lee and Brandon congratulated both parties.

ACTION: Commissioner Lee moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; Resolution No. 01-73 was adopted.

B. Request for approval of the re-dedication as a public right-of-way of approximately twenty feet of Seawall Lot 337 located adjacent to Third Street between Terry Francois Boulevard and Mission Rock and approval of a Memorandum of Understanding with the Department of Public Works regarding the right-of-way. (Resolution No. 01-74)

Phil Williamson, Property Manager, deleted the last paragraph of line 8 on page 2 of the staff report starting with the phrase ..."when the Muni improvements are installed and the street is regraded" and replaced it with ... "when development occurs on SWL 337." He presented the item and requested Commission's approval.

Jennifer Clary, San Francisco Tomorrow, indicated that whenever SWL 337 comes up on the agenda, she has to remind the Commission that this is zoned as open space. This is one of the few parts of the waterfront for which the Port does not have a CAC and does not have any public plans. She assumes that in a year, a CAC would tell her how to develop an arena at SWL 337 since it's fixed in her mind as a public park. She asked the Commission to direct staff to start a process for Pier 48 and SWL 337.

ACTION: Commissioner McCarthy moved approval; Commissioner Hardeman seconded the motion. All of the Commissioners were in favor; Resolution No. 01-74 was adopted.

8. PLANNING & DEVELOPMENT

A. Request for approval of expression of support for State Legislation to enable construction of a new cruise ship terminal development at Pier 30-32 that would include public access, and to provide for the acceleration of the construction of the Brannan Street Wharf Park (Resolution No. 01-75)

Byron Rhett, Director of Planning & Development, presented the item and requested Commission's approval. The legislation was approved in Sacramento and is awaiting the Governor's signature. As part of the review process, the Port committed to making certain improvements and accelerating other improvements. This resolution addresses those commitments. It addresses the concern of general office on the pier and limits general office to 325,000 s.f.; 25,000 s.f. of which would be allowable for no longer than 14 years, converting to trust use at that time or sooner if needed for cruise terminal expansion. It permits limited amount of local serving retail. It addresses the major concern of the South Beach community. The Special Area Plan was approved last summer in conjunction with our Waterfront Plan, the legislation ratifies the SAP and makes it clear that BCDC has design review approval over the cruise terminal and any related mixed-use developments. It also deals with the Brannan Street Wharf which was a commitment made by the Port as part of the SAP related to the cruise terminal. The original date for completion of the Brannan Street Wharf was 20 years after occupancy of the cruise terminal. This legislation accelerates the date to five years after initiation of construction. Through this resolution, the Port commits to the legislature and all the parties that we will honor that commitment. As a by-product of the construction of the wharf, it requires a demolition of Pier 36, which is presently occupied by Delancey Street Foundation. Port staff is also committing to demolish the pier so as not to delay the construction of the Brannan Street Wharf and work with Delancey to find them a new location. Because this process was done quickly, there were some inadvertent errors in the bill. It would be necessary to do some clean-up at a later date and commit to BCDC, State Lands staff, Attorney General's office that we would work with them to clean up those minor errors in the bill.

Mr. Rhett thanked Assemblymember Kevin Shelley who sponsored the AB 1389 with the support of the Mayor's office, Port Commissioners who wrote letters of support and attended the hearings, BCDC, State Lands Commission, the Attorney General's staff, Save the Bay Association and Supervisor Peskin. He also acknowledged and thanked the following Port staff for their contributions: Doug Wong, Noreen Ambrose, Neil Sekhri, John Doll, Kirk Bennett, Peter Dailey, Gerry Roybal, Mike Nerney, Larry Brown, Renee Dunn, Dan Bell, Diane Oshima and others.

Earl Gee, Portside homeowner, spoke on behalf of the Portside Neighborhood Committee. Portside is a condo complex located across the street from the proposed cruise ship terminal and directly facing the seawall lot. They oppose AB 1389, as the legislation allows the project to bypass the State Lands Commission, which insures projects are in compliance with public trust usage. They do not feel that 325,000 s.f. of private office space is consistent with proper maritime use, nor is it in compliance with public trust usage. It will only increase traffic and congestion at Bryant Street, an already near-gridlocked entry point to the Bay Bridge during rush hour. They also object to the last-minute nature of the bill, which seemed designed to circumvent hearing public opinion. If this was not its intent, this was the outward appearance. The first they learned of the bill was when they read it in *The Chronicle*. No time was allowed for public comment at the local level by people who are directly affected by the project. No time was allowed for a proper public hearing before the Assembly voted. They hope further actions related to this project will not be conducted in this manner. It is contrary to the spirit of community involvement that will make a

successful project. They hope that the community's opinions will be taken into account.

Eleanor Lindquist, Portside H.O. Association, indicated that it is their understanding that this bill showed itself as a result of the State Lands Commission saying that they could not violate their trust by approving it. They felt that their whole mission is to take care of this trust and they could not give a green light to this process; therefore, it had to go to legislature. They have been working with Lend Lease for quite some time and have promised that they would work with them closely. They supported them when they first bid on the project based on the fact that they would allow community input. On several meetings with them, they walked out quickly out of the meeting and have not given them the opportunity. They don't feel that this is in the right community spirit. As a result, it is not just their community who is upset about this but others as well. People all around town are not happy with the fact that the whole process was bypassed. They had not had opportunity for input. They have a ground swell of 2001 people who are against this legislation. They have some issues such as traffic, gas emissions, etc. They are not against the cruise ship terminal but there are problems and would like them addressed.

Jeffrey Leibovitz, Rincon Point South Beach CAC, commented that he is in full support of AB 1389 and hopes that the Commission approves the resolution. As a member of the Rincon Point South Beach CAC, he and other members met with the State Lands Commission to discuss the trust and non-trust uses. As a member of the committee who drafted the RFP/RFQ, he was insistent that the development maintain some neighborhood serving retail. In their meeting with State Lands, they were told that trust uses were regional uses such as Pier 39 type of use. They were encouraged by State Lands to seek legislation to get the types of uses that would be beneficial to the South Beach community. They then encouraged the Port to seek the legislation necessary to make those types of uses available to their community. Careful reading of the legislation reveals that is the case. They were delighted that the Port staff, at the behest of the State Lands Commission, entered into negotiations for an accelerated completion of the Brannan Street Wharf. Section 5D states that prior to the issuance of a BCDC permit for the cruise terminal development, the Port must demonstrate to the satisfaction of BCDC and the Attorney General's office that it has irrevocably encumbered all the funds deemed necessary for the completion of Brannan Street Wharf and has placed those funds into a segregated account guaranteed to be available and drawn upon for the construction of the Brannan Street wharf. This legislation makes it clear that BCDC has absolute purview over the design and development of this project.

Jennifer Clary, San Francisco Tomorrow, objected to the process taken. It was deeply flawed. It was known that when the developer was chosen that in all likelihood that the project would require special legislation. This version of the bill was introduced on September 7 and passed on September 14. It was nice that there was a bureaucratic process and worked out what the bill was going to be but in essence subverted the public process. The Port needs to recover the reputation which was damaged again by this action and how to avoid doing it again. She recommended that the Commission meet with State Lands. She suggested that the discussions should start sooner and anticipate the conclusion sooner. She asked for a copy of the inadvertent errors that

need to be corrected in the bill. She asked where the $15 million referred to in Section 5H is going to come from. She asked if the Port is anticipating the $2 million annual revenue that is promised in the BCDC Special Area Plan or if the Port is going to use the surplus to fulfill the terms of the agreement. She asked what the Port plans on doing to keep this from happening again.

James Haas, former chair of Rincon Point South Beach CAC, indicated that their 28-member committee representing all the different properties both as residents and owners as well as City organizations such as SPUR have endorsed the cruise terminal and worked with Port staff to move forward. It was apparent to a number of them about the question of general office space. They found State Lands staff supportive of the notion of having a cruise terminal on the San Francisco waterfront but they understood that there had to be an economic generator. The prime economic generator was one that the Attorney General said it couldn't be there. They discussed that issue and made reference to the BCDC policy relating to the historic nature and regional resource. State Lands would support a special legislation declaring a cruise terminal as a unique regional resource. Port staff and the developers worked on the legislation. Whether it was secretive or not, the important thing is the policy has been set and the approvals are still in the hands of all the bodies before the legislature act but there is now a policy which moves this important cruise terminal forward. He indicated that it is frustrating to create processes and involve as many people as possible, when there always seem to be either people who arrived in town recently or have been asleep at the switch, objects to it and act accordingly. He had to fend off a call from Assemblymember Shelley's office regarding 2500 people opposing the cruise terminal. There is widespread support from the community, labor and everyone who has anything to do with the waterfront. He urged the Commission to support this legislation.

Michael Sweet, Vice Chair of RPSB CAC, member of the Brannan Street Wharf CAC, and homeowner in the Portside building, pointed out that the Portside Homeowners Association has taken no position of opposition to the cruise terminal. There are members of the Portside community who live adjacent to the site who have expressed their position. He clarified that the Homeowners Association, which represents 200 homeowners, does not have a position in opposition. He is in the position as Mr. Haas of not knowing where the 2001 or 2500 people opposed comes from. They certainly don't come from Portside. The community is excited about the wharf project. The community is excited about the community based retail and the community he represents understands that Lend Lease has been working and meeting with them and changing their plans based on their input and trust that they will continue to do that. They are satisfied that the safeguards are and have always been in place. When this project moves forward on an accelerated timetable, there wouldn't be the kinds of problems that other speakers have indicated. He, too, attended the meeting with State Lands where they were told that on a personal level they were in support but didn't see it being done without the special legislation.

Commissioner Hardeman commented that people should be patted on the back for getting this bill through. It shows the power that the City has in the State of California. He congratulated everyone involved.

ACTION: Commissioner Hardeman moved approval; Commissioner Lee seconded the motion. All of the Commissioners were in favor; Resolution No. 01-75 was adopted.

B. Informational presentation by The Mills Corporation regarding its proposed Preferred Alternative Project plan of development submitted for the Piers 27-31 Recreation Project located on The Embarcadero between Greenwich and Bay Streets.

Curt Watts, Planning & Development, gave a brief background of the project. Similar presentations will be made to the Waterfront Design Advisory Committee, the Northeast Waterfront Advisory Group and BCDC staff. The first of the presentations took place earlier today before the Waterfront Design Advisory Committee and specific comments from that meeting focused upon such items as the suggested inclusion of a competition size swimming pool, creating an awareness of the facility's physical location on a pier over water, creating a self-identity for the northeast wharf plaza, moving the proposed YMCA building closer to the Embarcadero in alignment with the adjacent bulkhead buildings, utilizing the Pier 29 and 31 arch openings as entrances to the recreation uses. Use of the relocated belt line railroad office building for an expanded historic interpretation use and views from the plaza and transitions within the plaza to its various elevated portions. These comments and those received during the other required presentations would be given due consideration in a subsequent negotiation process during which the Port and Mills will meet, negotiate and seek to complete a development memorandum establishing the basic elements and business terms for the project prior to pursuing required regulatory approvals. Failure to agree upon the terms of the development agreement by the December 12th expiration date of the current exclusive right to negotiate would result in termination of that agreement. Following tonight's presentation, staff is eager to receive any comments from members of the Commission and the general public during the next few weeks as staff prepare for further discussions on the project. Mr. Watts introduced Steve Jacobson of the Mills Corporation to present their alternative proposal for the Piers 27-31 recreation project.

Steve Jacobson, Executive Vice President of the Mills Corporation, thanked the Commission for the opportunity to present the recent proposal of Piers 27-31 project. He has been with the Mills Corporation for 17 years; a registered architect and have been in the business of real estate development of over 25 years. He has corporate responsibilities as well as job specific and will be actively involved in this project through its completion. He introduced Marti Bolsinger, President and CEO of the SF YMCA, Dawn Riley, CEO and founder of America True as well as an accomplished world-class sailor, Michael Willis of Michael Willis Architects who was a design partner for the International Terminal, Cecil Williams, Glide Community Plaza and the Moscone Convention Center, Bill Fain with Johnson Fain Partners, designer of the Rincon Center, Citicorp Center and Mission Bay.

Mr. Jacobson relayed the following message from their Chairman, Mr. Seigel. "In this tough economic times, the Mills Corporation has never been more focused or committed than they are today and that this project, when completed, will be one all of San Francisco would enjoy and be proud of." Mr. Jacobson indicated that 90 days ago, the Commission presented them with 13 challenges but looked at it as opportunities. Over the 90 days, they diligently worked with Port staff and met those

challenges in a very committed and serious way. The Waterfront Land Use Plan is guided by seven goals from providing a working waterfront to economic access which reflects the diversity of San Francisco. This world-class indoor and outdoor recreation center will be second to none. It will provide free public access to the waterfront, which currently does not exist. They have been actively working with Dawn Riley and the YMCA in order to duplicate the concepts of America True so that no matter who you are, all the youths of San Francisco would be able to enjoy the waterfront. He was proud to have the YMCA as their partner. The YMCA has over 150-year history of serving the community and providing affordable recreation. They feel that it is critical to make this recreational project one that San Franciscans can identify with and that is why they have continued to actively pursue local vendors in order to give this project a true homegrown flavor. They will actively pursue tenants so that they could get the best scuba diving shop, the best skateboarding shop and the best windsurfing shop. They feel that the other uses support the other outdoor recreational activities. They have also created a 3,000 s.f. space within the project, which was not part of the initial Mills package. They believe that they need to pay tribute to the working waterfront. They propose to provide approximately 3,000 s.f. in the project rent free for local vendors and historians and curators. They will work with them to create space that not only pays homage to the working waterfront but also provides a space that addresses the whole historic preservation process. They offer to the Port and others to work with them to create this facility in the project so that people understand what everybody's have been as far as preserving this waterfront. The list goes on from tai chi to bocci ball to providing areas for water taxis and berthing for large ships. This world-class recreational facility would certainly be one for all of San Francisco to enjoy. The economic piece is broken into four categories: base rent during and after construction, base rent increases, percentage rent and refinance or sale. They have very aggressively address each one of the issues in the 13 Port conditions. He pointed out that the original proposal states that they would recapture the money for the northeast plaza over a 7-year period; the revised proposal reflects they would do it over a 3-year period. This would mean that the Port will receive an additional $2.8 million over the first seven-year period. He also focused on the significant changes to the square footages. It's almost unprecedented that a project of this size has almost 50% of its space devoted to open public space. He also noted that there were some specific request i.e. reduce office space which they reduce by 20%. They also took it off the lower level and it's all encompassed within the existing historic structures in Piers 29-31. They have also increased indoor and outdoor recreation by approximately 27% at the request of the Port. They also eliminated the artisan's gallery, which is a 100% reduction of 18,000 s.f. Not only did they reduce the restaurants and cafes by 40% but also distributed it throughout the project so it becomes more of an entire dining experience throughout the entire project. They took the Port's condition to heart; they addressed them in a very committed and serious way and they believe that this project is going to be a project that the Commission and San Francisco would be proud of.

Marti Bolsinger, YMCA, thanked the Commission for the opportunity to bring affordable and accessible recreation to all San Franciscans to this wonderful waterfront. She promised that Mills and the YMCA would make the Port very proud of this project. One of the 13 conditions they were required to respond to was the fundraising plan for the YMCA. She assured the Commission that the YMCA is very confident that they will raise the $30 million to open the YMCA. They have hired a

senior consultant who has had the experience just recently of raising $1.4 billion. They are sure that they would be able to do that and the plan calls for the completion of the fundraising to be December 2003, in time to open the facility. In the last 90 days, Mills and the YMCA have responded and designed an extraordinary project that creates an environment where people of all ages, abilities, interests and income levels would have access to the waterfront. There are no membership requirements and all activities are open to everyone. This special place will provide the largest collection of recreational and community offerings available in the Bay Area. Through affordable fees and financial assistance, everyone would be able to participate. Now, more than ever, they have the responsibility to provide those opportunities for everyone.

Dawn Riley, America True, indicated that this is going to be the first full service, fully accessible facility in San Francisco bay. The equipment they are planning on using are kayaks, windsurfers, access dinghies and sonars, etc. The sonars are 22 ft. boats. One can learn how to sail in a comfortable keelboat, they do not tip over. The access dinghies are also stable; they are hard molded, almost indestructible and steered with a joystick so that almost anybody could get into the boat and steer it. Both of these boats are adaptable by able and disabled bodies. They will offer instruction, rental and storage. They will continue to have the kids that need to get out on the water and use these programs so that they would be available to all of the children of San Francisco, whether or not they could afford it. They have taken 600 kids out this summer. This is going to become a facility where they can take those kids and the people of San Francisco can come down and feel that they belong to the waterfront community.

Bill Fain, architect, indicated that they are in a process that would create a world-class facility. It is a very unusual kind of project. It's a project at the heart of the City, at the edge of the waterfront where you could actually touch the water. There are very few cities in the country that have that kind of facility. Critical to the concept in developing this is they enjoin the water with the Embarcadero. They have to bring the water to the Embarcadero. They have elected to take down the 1967 building (Pier 27) to replace it with a building that allows visual access to the water and allows them to create a new view corridor between 27 and 29 which extends all the way out to the water. In the bulkhead building, they have opened up a passageway. In addition, they have introduced a promenade to connect across. It parallels the Embarcadero, connects the transit, the northeast waterfront plaza and a walk through to Embarcadero and the parking at Pier 31. If you're walking along the Embarcadero, you can walk up, go through the YMCA building across the valley, through 29 and to the marine activities and on to the Embarcadero. There is a strong difference between Pier 31 and 29 and 27. Normally, the pier buildings are surrounded on three sides by water. From a planner's perspective, it is a difficult task to integrate it and create a ground plane that extends from pier to pier. They have the opportunity to create a new diagonal. There is a large land mass that allows them to introduce not only indoor but also outdoor activity. The valley becomes important. In the development of the ground plane, they were able to take the recreational uses and spread them throughout the project. With regard to parking, they originally began with a concept of putting all the parking at Pier 31. In working with Port staff, they introduced 40 short-term stalls between Pier 27 and 29. It allows them an opportunity to provide a drop-off area. With regard to the replacement building for Pier 27, they elected to bring back the new finger pier creating a remnant or a similar kind of expression that was originally at Pier 27. They

felt that part of the Port's vocabulary was the issue of bulkhead finger pier. The front of the building in scale and massing would be similar to the bulkhead. They also introduced the idea of a glass pavilion to capture the curve forms. The new building would be a frame, wharf-like character. It would be an industrial kind of nature so it would have a certain harmony with the rest of the buildings. With regard to the northeast waterfront park, BCDC made it clear that the final design of the plaza would in fact be through a public process.

Michael Willis gave a brief rundown of their proposed project.

The following individuals thanked the Commission for the opportunity of having the YMCA on the waterfront: Jim Finkelstein, Harvey Louie Chinatown YMCA, and Jeremy Laskar, YMCA/JCC,

Commissioner Brandon thanked the developer for sharing their new proposal and looked forward to working with them.

9. ENGINEERING & MAINTENANCE

A. Request for authorization to execute the Memorandum of Modifications No. 3 (Mission Bay South Infrastructure Plan) regarding Illinois Street Bridge Option. (Resolution No. 01-76)

Nita Mizushima, Chief Harbor Engineer, presented the item and requested Commission's approval. She emphasized that the execution of this modification does not allow Port staff to move forward with the project. Staff needs to come forward with the proposed project one more time before going forth with the detailed design and construction of the project. The community has expressed concerns with several aspects of the bridge project such as the proximity of the bridge structure to the existing industrial buildings in the area, shoreline improvements and minimizing impacts to the local shoreline parks, alignment or the siting of the bridge, bicycle and pedestrian access, parking in the area and environmental concerns with the added traffic to the location due to noise and emissions. Port staff are meeting with the community and working with the Bayview Hunter's Point group and Supervisor Maxwell's office. Staff has presented the item to the SWAC and gained their support. MCAC has also provided their support. Staff will continue to work with the community before seeking Commission's authorization to move forward with the project.

Legal Counsel Neil Sekhri pointed out that this is Modification No. 4 instead of 3.

David Erickson, Will Spencer Building tenant and facilitator of the Muwekma Ohlone Sanctuary, indicated that everybody in the building have to move out if the bridge is built because there would only be 17 feet of roadway left. They have generated alternatives to the current design that would save millions of dollars. Alternative 1 would utilize the Michigan Street as a bridge site location; it has rail and truck routes. Alternative 2, utilizing the existing infrastructure, would be the most economically and environmentally promising alternative to the proposed Illinois Street design. He mentioned that Port staff has a copy of the questions that the community posed and

another set of questions would be forthcoming. He noted that there is only one page in the entire book that addresses environmental issues. They are concerned because the area has a lot of history related to the original inhabitants of San Francisco, the Ohlone Tribe. It also currently supports very significant commercial fishing industry. It is rapidly becoming a public and recreational area for the historically abused Bayview Hunters Point community. As part of their grant work, they had a habitat survey done that shows significant inner-tidal zone population. The SEIR does not address the Illinois Street Bridge and its impact to the habitat.

Michael Sgmabellone, Fabricator & Spencer Building Tenant, felt that this project was slipped under the door. There has been no public process; it came later in the project. The bridge severely limits access to their building; there are no accommodations for large trucks. The negative effects on the park are significant by not having direct access to the park. There are changes to the project that they are now aware of such as extending it to Cargo Way.

Victoria Doggett, La Raccolta Imports, indicated that their office is located where the Islais Creek intersects Illinois Street. Every three months, they have a container that arrives from Italy that is delivered by a MAC truck. After this construction, there will be no space for parking, let alone any deliveries. This would have a detrimental impact on their business.

Peter Jeal, Shannon & Jeal Fabricators, indicated that trucks delives materials everyday. They would never be able to make a turn if the bridge is built. He concurred with David Erickson's comments about rerouting it to the east so their businesses could survive.

Commissioner McCarthy asked about the issue around the trucks and the amount of space. Ms. Mizushima replied that they have been looking at the truck issue specifically. There is an 80-foot right of way dedicated for street use. They have moved it as far to the east of the right of way as possible, which means they take up the eastern most 42 feet of that 80 foot right of way, leaving the remaining space in front of the building plus the 6 foot concrete apron to their building. As far as truck movement in the area, a 35 foot truck takes a 42 foot turning radius. Staff has been looking at whether they would be able to t-bone into the building and whether that would take a couple of turn movements to be able to do that. Staff has also been looking at replacement parking, studying the existing parking in that area and where it will be replaced. These are issues that the community has brought to their attention and staff is looking further into them and will be coming back to the community and to the Commission with the results of their study.

Commissioner McCarthy commented that it sounds like there might be some way to make certain that trucks or the materials could get there. There might be a slight inconvenience but it sounds like it could be accommodated in some way. Ms. Mizushima indicated that they are working with the community to make sure that the solutions they are looking at will address all those issues.

Commissioner McCarthy asked about the schedule and the process and what this resolution constitutes. Ms. Mizushima replied that this resolution puts in place the

framework to be able to accept the additional monies and have a vehicle by which the project could be delivered in an expeditious way. Staff needs to seek Commission's approval before moving forward with the detailed design and construction. The project is in its preliminary design phase where staff is gathering public comments and looking at incorporating them into the project. Within the next few months, staff will come back to the Commission with some answers to the questions that have been posed and asked for the Commission's authorization to elect the option that has been set up under this framework. Once that election is made, the bridge design would move forward. Staff has met with the community once and plan to meet further and meet with the advisory committees. With regard to the issue of access to the park, the Port intends to provide access to the park. The Port intends to provide a path from the intersection of Marin and Illinois to the shoreline. Additionally, there is a pocket park on the west side of the bridge and that access would still be there. Other shoreline improvements have not been finalized. Staff is taking into consideration the comments from the community with that regard. She emphasized that staff has been securing the funding to move this project forward. Staff is also looking at some of the suggestions with regards to regrading in the area and working with the building owners.

Commissioner McCarthy asked about the outreach process. Ms. Mizushima replied that staff has been working with the tenants of the Spencer building.

Diane Oshima added that the outreach is still evolving. Once the EIR was done and staff was in a position of looking at the preliminary design of the bridge, staff brought this to the SWAC. The noticing list is fairly extensive but is not inclusive of every possible property owner in the area. David Erickson has been a regular attendee of the meeting. Staff was able to identify the main cadre of concerned citizens in the area. Staff is working with them and hearing their questions and try to incorporate the changes into the project. In terms of the EIR, the Illinois Bridge was called out as a specific construction project sponsored by the Port analyzed in the Southern Waterfront SEIR. The short paragraph of environmental analysis that was shown was a piece of an engineering report to look at different kinds of bridge design type and it does not satisfy the environmental review requirements that this bridge would require under the CEQA. The analysis is complete; there was a habitat analysis that was included; there were no significant impacts on the long term that were identified but it was clearly acknowledged that the most disruptive period would be during construction. There were a number construction period mitigation measures that were identified in the EIR which staff expects will be supplemented by additional conditions from the RWQB, BCDC and Coast Guard to minimize or avoid those impacts. The permit application process for those regulatory reviews were not yet submitted. Staff is trying to make sure that we have a project before putting the applications together. The Coast Guard application is the big umbrella application from the federal agency review that staff is focusing on. Upon looking at the application, they may find that there is a need for some additional environmental information beyond what the EIR provides. David Erickson's group have received some grant funds to have habitat survey in the area. Staff is anxiously awaiting for a copy of the survey to determine if there is any other habitat of concern that needs to be taken into account in the environmental review.

Commissioner McCarthy asked about the commercial fishing industry. Ms. Mizushima replied that they are referring to the herring season. All of the construction on the waterfront addresses staying out of the herring season window for the construction period.

Commissioner Lee asked about the next meeting of the community. He wanted to make sure that all the tenants are invited to the meeting. He asked about the distance from the face of the building to the bridge. Ms. Mizushima replied that there was a miscommunication regarding the 16 feet distance from the building to the bridge. There is actually 38 feet from the building property line to the face of the retaining wall. The next community meeting has not yet been scheduled. Staff is taking all the input that was provided at the first community meeting and run costs, feasibility before meeting with them. The meeting will take place in the next two weeks. All the interested parties will be notified of the next meeting. Staff is looking at the preliminary design and taking the input from the community. This amendment would allow an additional $1.8 million towards the project. Because Catellus is currently moving forward with their development, they need to get to a point where they would have to remove rail and put it into 16th Street, which they are obligated to do under the current agreement. Staff is trying to capture the money that they would have put into the rail and put it into the bridge where it would benefit more people. If we can't do that, the deadline is December 31st, we lose on the opportunity to be able to do the project and that money will go into putting rail into Mission Bay, a freight rail that would serve Pier 80, and our budget gets reduced. In addition, if we cannot move forward and capture the deadline on the $2.5 million which was 5 years from the execution of the agreement - November 2003, the Port would also lose out on those funds towards the bridge.

Commissioner Brandon thanked Nita and Diane for meeting with the various community groups. She emphasized that this is not the final process as it will need to come back to the Commission for approval. She hoped that some of the issues would be resolved before this item is brought back to the Commission.

ACTION: Commissioner Hardeman moved approval; Commissioner McCarthy seconded the motion. All of the Commissioners were in favor; Resolution No. 01-76 was adopted.

At 7:20 p.m. the Commission withdrew to executive session to continue their discussions of the executive session items.

10. ADJOURNMENT

Commissioner Hardeman moved approval not to disclose any information discussed in executive session; Commissioner Lee seconded the motion. All of the Commissioners were in favor.

The meeting was adjourned at 9:45 p.m.